

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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CWP-24068-2022

Date of Decision: 18.10.2022

THE JANTA DHALE KE CO-OP. L & C LTD. MOGA

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Satnam Singh, Advocate for
Mr. T.P.S. Makkar, Advocate for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been instituted under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Certiorari for quashing the inquiry report dated 13.07.2022 (Annexure P-3) given in an inquiry by respondent No.4, whereby a recovery of Rs.13,34,823/- including recovery balance of Rs.7,06,764/- and Rs.5,28,059/- towards security deducted at the time of making the payment of running bills, has been effected from the petitioner by respondent No.3 on account of work executed by the petitioner.

Learned counsel for the petitioner contends that the petitioner had executed various works assigned to it from time to time and there has never been any complaint against the works executed by the petitioner. Vide e-tender reference No.LGPMCM/2021/05, a notice inviting tender was issued by the respondent-Department for various development works to be carried out in Moga City. The petitioner had also submitted his bid for the work mentioned at Sr. No.29 of the e-tender notice. On 03.12.2021, the work of development of parks in various parts of Moga City was allotted to the petitioner vide work order No.44/67 dated 13.08.2021. This work was

allotted to the petitioner at 10.20% below OAS. After allotment, the petitioner commenced the work and pursuant thereto, the plants as per the work order were supplied in the month of November 2021. Thereafter, in 2022 due to the Code of Conduct imposed as a result of Vidhan Sabha Elections in the State of Punjab immediately followed by winter season, the work of plantation of plants was not started. After removal of Code of Conduct, there was acute shortage of gardeners in the respondent-Department, due to which proper care of the plants could not be taken. It is further contended that during the said period, payment of three running bills was also released in favour of the petitioner. Further, the respondents-Department passed the proposal of appointing 70 Gardener-cum-Baildars vide its resolution No.27 dated 02.08.2021, however, vide letter No.A.V.P.N. 11.08.2021-4, PP3/1219 dated 09.11.2021 issued by the Personnel Department, Government of Punjab (PP3 Branch) instructions were issued for not appointing the contractual or outsourced employees against the regular approved vacancies in compliance of the decision taken in the meeting dated 18.03.2017 of the cabinet. As such, the appointment of 70 Gardeners could not take place. Further, due to the defect in STP Plant at Bageana Chappar Park, there was water logging due to which some plants and grass were damaged and due to shortage of Gardeners in the respondent-Department, proper care of the plants could not be done at various parks. Thereafter, a complaint was filed with regard to some works done by the petitioner including the aforesaid work. Inquiry was conducted by respondent No.4. However, without appreciating the submissions of the petitioner and statements of the concerned officials, the respondent No.4, vide inquiry report dated 13.07.2022, ordered recovery from the petitioner. Feeling

aggrieved of the same, the petitioner on 26.08.2022 sent a legal notice (Annexure P-4) to the respondent No.3 calling upon the respondent No.3 to release the outstanding amount regarding the above mentioned work, but the same has not been decided till date. Rather, later on, the petitioner came to know that the respondents have effected recovery of Rs.13,34,823/-, which including recovery balance of Rs.7,06,764/- and Rs.5,28,059/- towards security deducted, which is highly illegal, arbitrary and against the principles of natural justice.

Notice of motion.

Ms. Niharika Sharma, AAG, Punjab, who is present in Court, accepts notice on behalf of the respondent No.1 and seeks time to complete instructions.

Mr. Saurav Verma, who is the Additional Advocate General Punjab and would thus be on the panel of all statutory Board and Corporations of the State of Punjab has been requested to accept notice on behalf of the respondents No.2 to 5.

He accepts notice on the asking of the Court on behalf of the respondents No.2 to 5.

Learned counsel for the petitioner submits that at this juncture, he would be satisfied if the respondent No.3 is directed to consider and decide the legal notice dated 26.08.2022 (Annexure P-4) in a time bound manner.

Both the learned State counsel do not oppose the prayer made by the learned counsel for the petitioner.

Accordingly, in view of the above, the present petition is disposed of with the consent of the parties and without commenting on the

merits of the case, with a direction to the respondent No.3 to consider and decide the legal notice dated 26.08.2022 (Annexure P-4) by passing a reasoned and speaking order after affording an opportunity of hearing to the petitioner, within a period of three months from the date of receipt of certified copy of this order.

Needless to mention that upon considering the said legal notice, if any amount is found due and payable to the petitioner, the same shall be disbursed in favour of the petitioner within a further period of three months.

18.10.2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*