

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

267-3

CWP-31493-2019

Date of Decision: 10.10.2022

M/S HEMKUNT ENGINEERING & CONTRACTORS

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Chirag Girdhar, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

None for respondent-PSPCL.

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 Mandamus directing the respondents to release the due payment of Rs.18,40,000/- including the security and earnest money qua the works executed by the petitioner during the year 2015-16 alongwith interest @ 12% per annum.

Learned counsel for the petitioner contends that various works were allotted to the petitioner vide different allotment letters. The said works were duly completed by the petitioner, however, the due payment against the said works has not been released by the respondents till date. The details of the said works has been duly given in tabulated form in paragraph No.2 of the petition. He further submits that there is no dispute with regard to the successful completion of the works within stipulated time period. He further contends that now a period of more

than two years has elapsed since completion of the works but some of the bills are not being processed and the payment is not being released. Consequently, a legal notice dated 23.09.2019 had also been served by the petitioner, which is appended alongwith the instant petition as Annexure P-2.

Today there is no representation on behalf of the respondent-PSPCL, however, the written statement on behalf of the said respondent has already been filed. While referring to the work mentioned at Sr. No.1, the respondents have taken a stand that the petitioner did not complete the work within the prescribed time and certain discrepancies were found in the works allotted to him. As a result of the aforesaid discrepancies, the penalty clause of the allotment order came into operation and that the petitioner is required to submit a revised invoice. The payment in question would be released upon completion of the requisite formalities and submission of the revised invoices as per the work order. Qua work No.2, a similar stand has again been taken by the respondents and it is contended that the payment in question would be released upon submission of proper invoices. So far as the payment qua work mentioned as Sr. No.3 is concerned, the same is claimed to have been released vide cheque dated 26.09.2019. Insofar as the claim with regard to the work mentioned at Sr. No.4, the respondents have submitted that the final payment has already been made in accordance with the invoices raised by the petitioner. The security amount has also been released vide cheque dated 19.11.2019. As against the status of payment of work mentioned at Sr. No.5, it is stated that the original receipt of Rs.55,000/-

has not been submitted by the petitioner and therefore, the earnest money has not been released. Qua the status of payment of work mentioned at Sr. No.6, it is the stand of the respondents that the work in question had not been completed by the petitioner and the petitioner has failed to resume work at site despite repeated reminders.

Learned counsel for the petitioner contends that insofar as the payment qua works where revised invoices/original receipts are required to be submitted, the petitioner shall approach the concerned Authorities with the revised invoices within a period of one month of the receipt of certified copy of this order.

In view of the aforesaid uncontroverted factual position, there is no need to ensure presence of the counsel for the respondent-PSPCL considering the order which this Court intends to pass.

Hence, the present petition is being disposed of, without commenting on the merits of the case and without prejudice to the respective rights of the parties.

In the event of the petitioner approaching the respondents and/or Authorities concerned alongwith the necessary documents/invoices/original receipts within the period specified above, the payment in question, as has been found to be undisputedly due in favour of the petitioner, shall be released within a period of three months thereafter, failing which it shall carry interest at the rate of 6% per annum from the date of filing of the present petition till its actual disbursement.

So far as the payments qua the works that are disputed, the petitioner shall be at liberty to take recourse to the alternative remedies

available to him in accordance with law as High Court in exercise of its power of judicial review does not enter into disputed questions of fact. The said facts need to be determined as per alternative efficacious remedies available under the Contract or Civil Law.

Petition is accordingly disposed of.

10.10.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*