

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

140

**CWP-28911-2022 (O&M).
Date of decision: 15.12.2022.**

M/s Gautam Construction Company

...Petitioner

Versus

The State of Punjab and others

...Respondents

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

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

VINOD S. BHARDWAJ. J (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of mandamus directing the respondents to make the due payment of Rs.56,59,641/- qua the work of construction of Super Passage at RD 112250 executed by the petitioner along with interest @ 12% per annum.

Learned counsel appearing on behalf of the petitioner contends that the above work was allotted to the petitioner vide Work Orders No.92 to 97 dated 26.11.2010.

The said work was duly completed to the satisfaction of the respondent authorities on 31.07.2016, however, the balance payment had not been made. A legal notice dated 02.03.2019 was thereafter served by the petitioner and due to inaction on the part of the respondents CWP NO.8538 of 2019 was preferred before this Court. The said writ petition was disposed of vide order dated 29.03.2019 directing respondent No.5 to take a final decision thereupon within a period of 08 weeks. Since the said order was not complied with, the petitioner was constrained to file COCP No.2142 of 2019. The short reply by way of an affidavit was filed by the respondents in the said contempt petition that there was no balance amount payable to the petitioner. Resultantly, the contempt petition was withdrawn with liberty to avail the remedies available to the petitioner in accordance with law.

The petitioner thereafter approached the authorities raising his claim along with the requisite evidence to substantiate that the disputed amount was payable to him whereupon a Committee was constituted to enquire about the works executed by the various contractors on the Kandi Kanal project. A report was thereafter submitted by the said Committee on 08.11.2021 which reiterated that the petitioner had executed the pending work as well and was entitled to the balance amount of Rs.56,59,641/- qua the work executed by it even actual bill amount was Rs.50,69,000/-. The said demand was thereafter raised by the petitioner, however, the same has not been released so far.

Learned counsel for the petitioner contends that in this regard, a legal notice dated 14.11.2022 (Annexure P-6) has been sent by the petitioner and that despite a lapse of more than 1 month since the

date of legal notice neither any decision has been taken thereupon nor has the due and undisputed payment been released by the respondents. He contends that he would be satisfied in case the respondent authorities are directed to look into the legal notice and the grievance espoused by the petitioner therein and a speaking order is passed thereupon in accordance with law and in a time bound manner.

Notice of motion.

On the asking of the Court, Mr. Saurav Verma, Addl.A.G., Punjab, who is present in Court, accepts notice on behalf of the respondents and he has no objection to the aforesaid prayer being granted.

Accordingly, with the consent of the parties and without commenting upon the merits of the case, the present petition is disposed of and the respondent No.5 - the Executive Engineer, Intensive Investigation Division, (now Stage-II Division), Hoshiarpur, is directed to take note of the legal notice dated 14.11.2022 (Annexure P-6) sent by the petitioner and to pass a speaking order thereupon in accordance with law and preferably within a period of three months from the date of receipt of certified copy of this order.

Needless to mention that in the event the entitlement of the petitioner being established as per law, the payment due to the petitioner shall be released expeditiously and preferably within a further period of three months. Failure to release the undisputed payment within the aforesaid stipulated time frame, once found due, shall attract interest at the rate of 6% per annum till the date of actual realization.

Petition stands disposed of accordingly.

December 15, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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