26th July, 2023
(AK)
08-09

W.P.A 3963 of 2023
IA No: CAN 1 of 2023
With
W.P.A 3966 of 2023
IA No: CAN 1 of 2023

Mandip Kumar Agarwal
Vs.
Union of India and others

Mr. Srijib Chakraborty
Mr. Arindam Das
Ms. Priyanka Kundu
Mr. Diptangshu Kar
...for the petitioner
in both the matters.

Mr. Samrat Chowdhury
...for the respondent nos.2 & 4
In both the matters.
Mr. Devajyoti Barman
Ms. Sanjukta Basu Mallick
...for the Food Corporation of India.

Both the writ petitions are taken up for hearing, since they relate to different components of a similar money claim in respect of work done by the petitioner for the Central Wire Housing Corporation (CWC).

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With regard to WPA 3966 of 2023, learned counsel for the CWC, in his usual fairness and on instruction, submits that the said respondent is agreeable to disburse the entire amount of dues in favour of the petitioner, after deducting the charges which are deductable by way of expenses of the CWC, as per agreement between the parties.

Accordingly, WPA 3966 of 2023 is disposed of in terms of the above submission, directing the respondent no.4, that is, the Regional Manager of the Central Wire Housing Corporation, to ensure that the entire claim of the petitioner for work done by the concern, belonging to the petitioner's deceased father, is disbursed to the petitioner as expeditiously as possible, preferably within three weeks from date, subject to the petitioner complying with due formalities, which shall be done by the petitioner within a week from date.

CAN 1 of 2023 is disposed of accordingly.

There will be no order as to costs.

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Insofar as WPA 3963 of 2023 is concerned, the petitioner has raised a question as to whether the CWC can withhold the due amount to the petitioner's deceased father, by way of security deposit, on the pretext that the Food Corporation of India (FCI), that is, the added respondent, did not pay the bills of the CWC.

Learned counsel for the petitioner places reliance on the annexures to the interlocutory application, filed in connection with the writ petition, to argue that the FCI has already disbursed its dues in favour of the CWC.

With regard to the other components of the amount to be disbursed, being the security money for CWC, Nimpura Kharagpur, and the payments for February-2020, March-2020, April-2020, August-2021 and January-2022, there is no impediment on the part of the CWC to release such amounts.

It is argued that the amount payable by the FCI, in any event, relates to the bill period from February 1, 2022 to February 18, 2022, which amounts to Rs.61,55,723/-, as indicated in the communication of the petitioner dated September 2, 2022 annexed at page-193 of the writ petition.

Learned counsel for the petitioner further submits that the other pretext taken by the CWC for non-payment, being the pendency of a criminal investigation regarding the theft of certain goods of the CWC, neither the petitioner nor the petitioner's deceased father or the concern of the petitioner's father, which was the contractor, are named as accused persons in the complaint or the FIR. Hence, the said ground also pales into insignificance.

Learned counsel appearing for the CWC submits that although the petitioner or the petitioner's father were not specifically named in the complaint, the outcome of the investigation will only show as to whether the petitioner or his father were involved in any manner with the instance of theft.

If so, a premature disbursal of the entire dues might ultimately lead to the investigation being frustrated.

That apart, it is submitted that although certain documents have been annexed to the interlocutory application, it is for the FCI to clarify as to whether such payments were made in the context of the petitioner's bills.

Insofar as the first defence of the CWC is concerned, regarding the ongoing investigation on an allegation of theft, the same cannot be a valid ground for withholding payment to the petitioner.

Since the payment is for work already done by the petitioner's deceased father, to whose estate the petitioner is entitled as a heir, and there is no allegation whatsoever even in the complaint of the CWC regarding the involvement of the petitioner's father or the petitioner in such instance of theft, and as certain persons have already been named in the documents pertaining to such criminal investigation, who are personnel of the CWC itself, the CWC cannot be permitted to withhold legitimate dues of the petitioner on such score.

However, insofar as the clarification which is due to come from the FCI is concerned, the CWC is justified in making such submission.

Accordingly, let the matter stand over till August 9, 2023 when learned counsel for the FCI shall file specific written instructions on behalf of his client, the added respondent, indicating as to whether the amounts paid, as shown in the interlocutory application filed by the petitioner, pertain to the relevant bills of the CWC relating to the petitioner's work.

The matter shall next be listed, as directed above, on August 9, 2023, fairly at the top of the list, for passing orders.

(Sabyasachi Bhattacharyya, J.)