

Ct. 05
Item No.08
05.04.2023
(Suvendu)

WPA 25371 of 2022

**Godrej & Boyce Mfg. Co. Ltd.
Vs.
The State of West Bengal & Ors.**

Mr. Pratik Dhar
Ms. Deblina Lahiri
Mr. Samik Halder
Mr. Mrinmoy Chatterjee
.....for the petitioner

Mr. Sayantan Bose
Ms. Ankita Choudhury
Mr. Shounak Mukhopadhyay
.....for the respondent nos. 5 & 6

The petitioner prays for a direction on the respondents to release the admitted and undisputed amounts to the petitioner with interest @ 12% p.a. Although a preliminary objection to such a prayer being made in the writ jurisdiction has not been taken on behalf of the respondent nos. 5 and 6 (Manjusha), the fact that a prayer of this nature can be allowed should first be clarified.

There are several decisions of the Supreme Court which say that a writ court can not only go into a claim for refund of money, but can also pass an appropriate order for payment of money.

The decisions start from *Smt. Gunwant Kaur & Others Vs. Municipal Committee, Bhatinda & Others*, 1969 (3) SCC 769, where the Supreme Court held that the High Court was not justified in dismissing the writ which involved disputed question of facts. In *ABL International Ltd. & Another Vs. Export Credit Guarantee Corporation of India Ltd.*, (2004) 3 SCC 553, the Supreme Court held that a writ petition involving consequential relief of monetary claim is maintainable. The Supreme Court came to a similar decision in *Real Estate Agencies Vs. State of Goa & Others*, (2012) 12 SCC 170, where relying on *ABL*, the decision of the High Court not to entertain the writ petition on the issue of disputed question of facts was commented upon. The Supreme Court awarded interest @ 6% per annum due to long period of delay in making payment to the petitioner in *Surya Constructions Vs. State of Uttar Pradesh & Others*, (2019) 16 SCC 794.

On the merits of the matter, the petitioner supplied furniture to two schools situated in Alipurduar, West Bengal on Supply Orders issued by the respondent nos. 5 and 6 (Manjusha). There is no dispute that the supply was successfully made. The dispute arises out of the unpaid amounts of the petitioner which is approximately Rs. 62,86,302/-. The arrangement was that the petitioner would

supply the furniture to the schools in Alipurduar on the orders issued by Manjusha. The money thereafter would be released by the District Magistrate, Alipurduar to Manjusha who would then make the payment to the petitioner.

The fact that the impugned claim is undisputed would be evident from the two letters issued by Manjusha to the District Magistrate, Alipurduar dated 10th January, 2019 and 24th August, 2020 and the letters issued by the Chairman of the concerned Schools in Alipurduar to the Joint Secretary, School Education Department on 9th September, 2019 mentioning the amounts due to the petitioner.

The contention of learned counsel appearing for Manjusha is that Manjusha cannot be made liable for payment of interest since the supply order which is part of records make it clear that Manjusha will make payment to the petitioner after submission of bills against satisfactory supply and full realization of payment from the District Magistrate's office. Counsel submits that as Manjusha has not received any payment from the District Magistrate, the question of Manjusha making payment to the petitioner or being liable for any interest for the unpaid amount would not arise.

The letters on record show that the District Magistrate, Alipurduar has not released any fund in favour of Manjusha which in turn has not been able to make any payment to the petitioner. Hence, the time which would start to run for making Manjusha liable for paying interest has not commenced as on date.

However, since the claim is against an admitted amount as would also appear from the letters issued by the concerned schools, there can be no impediment for passing an appropriate direction on the respondent no. 3 which is the District Magistrate, Alipurduar.

The respondent nos. 1-4 are not represented despite being served. The affidavit of service is on record.

WPA 25371 of 2022 is accordingly allowed and disposed of with a direction on the respondent nos. 2 and 3 to release the payment due to the petitioner within a period of six weeks from the date of communication of this order along with interest @ 6% per annum from May, 2018 till the actual payment is received by the petitioner. The amount which is due from the respondents would appear from the letter of Manjusha to the respondent no. 3 dated 24th August, 2020. As soon as the payment is made by the respondent no. 3 to the Manjusha,

Manjusha will release the claim of the petitioner preferably within a week from the date on which Manjusha receives the payment as directed.

Urgent photostat certified copy of this order, if applied for be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)