

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

WPA 2270 of 2022

**Shivratan Agarwal
-versus-
State of West Bengal and Ors.**

Mr. Mahim Sasmal
Mr. Suman Kumar Sikder

... for the petitioner.

Mr. Subir Kumar Saha
Mr. Pretom Das

... for the State.

Mr. Amitam Mondal
Mr. Partho Choudhury
Mr. Debasish Mukhopadhyay
Mr. Anirban Banerjee
Ms. Sriya Basu

... for the Municipality.

Counsel for the respective parties are
present.

The petitioner has filed the present writ application praying for release of the bill amount raised by the petitioner before the respondent no.6 with respect of the work executed by the petitioner for supply, erection, fitting and fixing of high mast flood light in Ward Nos. 1 to 15 under the Green City Mission at Mal Municipality (Phase-1 and Phase-2).

Counsel for the petitioner submits that the Chairman, Mal Municipality has published the

tender on 19th May, 2018 and accordingly, the petitioner has participated and two work-orders have been issued to the petitioner for the above mentioned work. On receipt of the work-orders, the petitioner has completed the work and on 11th August, 2018 has submitted two bills in respect of the two work-orders. In spite of receipt of the bill, the respondent authorities have neither released the amount nor have rejected the claim made by the petitioner and accordingly, finding no other alternative, the petitioner has filed the present writ application.

Learned counsel for the petitioner submits that after filing of the writ application, the respondent authorities have taken the stand that the petitioner has not completed the work and during the pendency of the writ application, only on 12th June, 2023, the respondent authorities have released an amount of Rs.10 lakhs.

Learned counsel for the Municipality submits that the petitioner has not completed the work and accordingly, on 9th September, 2022, the Municipality has received a letter from the West Bengal Electricity Distribution Company Limited stating that the high mast and the street light pole kiosk are open and there is a possibility of any kind

of untoward incidents like accident if any animal or human touches the open connection.

Counsel for the Municipality submits that in the month of August, 2022, the respondents have requested the petitioner to complete the work, but till date work has not been completed.

Learned counsel for the Municipality submits that the petitioner on the ground of marriage of daughter of the petitioner has made a written request to the Municipality for release of some of the amount out of total bill amount and accordingly taking leniency, the Municipality had released a sum of Rs.10 lakhs for the purpose of marriage of the daughter of the petitioner without prejudice to the rights and contention of the Municipality.

Counsel for the Municipality also submits that the petitioner has raised the bill in the year 2018 and has filed the present writ application in the year 2022 and as such the claim made by the petitioner is also barred by limitation.

Considered the submissions made by the counsel for the respective parties. Perused the materials on record.

Admittedly, the Municipality has issued two work-orders to the petitioner for supply, erection,

fitting and fixing of high mast flood light in Ward Nos. 1 to 15 under the Green City Mission of Mal Municipality. The petitioner has submitted the bill on 11th August, 2018 and in the writ application, the petitioner has categorically stated that the petitioner has completed the work in all aspect and accordingly, the bill has been submitted. The Municipality has received the bill on 11th August, 2018 but the same were kept aside till the month of August, 2022 and only after filing of the writ petition, the Municipality has come with the plea that the petitioner has not completed the work. Counsel for the Municipality has relied upon the conditions in the work-orders wherein it is mentioned that the date of commencement and the date of completion shall be reckoned 120 days from the date of layout.

As per the averments made by the counsel for the petitioner and the submission made by the counsel for the petitioner, on 11th August, 2018 the petitioner has completed the work and submitted the bill which reveals, within the stipulated period as mentioned in the work-orders, the petitioner has completed the work and submitted bill.

Now the Municipality has raised two preliminary questions i.e. delay in filing of the writ

application and the petitioner has not completed the work.

After considering the above aspects, this Court finds that the Municipality has admitted that the bill submitted by the petitioner was received by the Municipality in the month of August itself but the Municipality has not raised any objection nor has issued any notice till the filing of the writ application that the writ petitioner has not completed the work in terms of the work-orders. The Municipality has also relied upon page 9 of the affidavit-in-opposition which is the letter dated 6th April, 2022 but this Court finds that the letter has been issued in the year 2022 i.e. after the period of four years from the date of submission of the bill by the petitioner.

Accordingly, this Court finds that the objections raised by the Municipality with regard to non-completion of the work and delay in filing the writ application cannot be sustained.

It is also admitted by the Municipality that the Municipality has released a sum Rs.10 lakhs on 12th June, 2023 i.e. during the pendency of the writ application. Though the Municipality has taken the stand on the written submission made by the petitioner only because of the marriage of the

daughter of the petitioner and without prejudice to the rights and contentions of the Municipality, the Municipality has released the said amount. The said submission also cannot be sustained on the ground that if there is no amount payable to the petitioner, then how the authorities have released an amount of 10 lakhs to the party concerned. Accordingly, the said submission is also not sustainable.

In view of the above, the respondent authority, particularly, the respondent no.6 is directed to release the amount as per the bill raised by the petitioner within a period of six weeks from the date of receipt of copy of this order.

WPA No. 2270 of 2022 is thus disposed of.

(Krishna Rao, J.)