

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

11.01.2023

(SL 06)

(AK)

WPA 3285 of 2022

**M.P. Sitani and Sons
Vs.
The State of West Bengal & Ors.**

Ms. Supriya singh

... for the petitioner.

Mr. Subir Kumar Saha

Mr. Pretom Das

...for the State.

Affidavit-in-opposition filed by learned counsel appearing for the respondent nos. 2 to 7 is taken on record.

The petitioner claims to have been engaged as a contractor for construction of a resort at Chalsa, North Bengal by the West Bengal Tourism Development Corporation. The petitioner's contract was terminated on 5th July, 2019. At the time of termination, the petitioner prayed for release of money for the work already done by the petitioner. The answering respondent also wrote a letter to the petitioner on 5th March, 2019, which is before the termination, to raise any claims which the petitioner may have on that date.

The petitioner claims that Rs. 80,03,616/- is due from the answering respondent. The petitioner was, however, paid approximately Rs.14 Lacs on 29th September, 2022. The rest of the amount remains outstanding.

The admission on the part of the answering respondent with regard to the amount of Rs.88,03,616.16/- would appear from a document annexed to the writ petition which is from a hand written endorsement on the part of the answering respondent made on 27th June, 2019. This was the admission of Rs.80,03,616.10/- was not only admitted but was also recommended by the Superintending Engineer of f the respondent to the technical advisor for further action on 28th June, 2019.

The petitioner wrote several letters to the answering respondent. The last letter was issued on 3rd November, 2022. The amount has not been paid to the petitioner till date.

The affidavit-in-opposition of the answering respondent does not specifically deal with the hand written endorsement of the amount of Rs.80,03,616.16/-. The relevant paragraph contains a bare denial of the fact of admission. Nor has any

specific reference being made to the subsequent action of the respondent recommending and furthering the same to the Technical Advisor for further action.

This court is, hence, of the view that the answering respondent does not have a defence to the petitioner's claim and has not given any explanation, credible or otherwise, for the admission which is part of the records. There is also no delay in demand of the claim since the petitioner continued to correspond with the respondent till November 2022 and 14 Lacs payment was made by the respondent on 29th September, 2022.

WPA 3285 of 2022 is, accordingly, allowed and disposed of with a direction on the respondent no.3 being the Managing Director, West Bengal Tourism Development Corporation Limited to pay an amount of Rs.74,43,052.17/- to the petitioner along with interest at 6% per annum from 5h July, 2019 till the date of payment. The payment shall be made within a period of 10 weeks from date.

(Moushumi Bhattacharya, J.)