

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

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CWP-160-2023

Date of Decision:09.01.2023

M/s Gurbachan Singh Contractor

.....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.**

**Ms. Niharika Sharma, A.A.G., Punjab,
for respondent No.1.**

**Mr. Saurav Verma, Addl. A.G., Punjab,
for respondent Nos.2 to 4.**

VINOD S. BHARDWAJ , J.(Oral)

Prayer in the instant civil writ petition filed under Articles 226/227 of the Constitution of India, 1950 is for issuance of a writ, order or direction especially in the nature of mandamus directing the respondents to release the due amount including the security qua the work executed by the petitioner along with interest @ 12% per annum.

Learned counsel appearing on behalf of the petitioner contends that the work for Up-gradation of L/R Bhai Desa (BSBK Road) to Aklian upto Block Boundary via Burj Rathi-Ubba-Burj Dhilwan under PMGSY-II (Batch-1, 2015-16), District Mansa, Package No.PB11 042 length 7.35 was allotted to the petitioner vide letter dated 06.07.2016. Pursuant to the

completion of work on 30.06.2017, the petitioner commenced the work of maintenance of the road w.e.f. 01.07.2017. The payment of up-gradation of road and maintenance period w.e.f. 01.07.2020 to 30.06.2022 has already been released to the petitioner. However, the security deducted from the running bills and the payment of maintenance period w.e.f. 01.07.2020 to 30.06.2022 i.e. two years has not been paid. The details of the amount payable to the petitioner are extracted as under:-

Security deducted from bills	₹10,28,255/-
Bill for maintenance period w.e.f. 01.07.2020 to 30.06.2021 (4 th year maintenance period)	₹8,31,792/-
Bill for maintenance period w.e.f. 01.07.2021 to 30.06.2022 (5 th year maintenance period)	₹10,40,267/-
Grand Total	₹29,00,314/-

It has contended that even though the petitioner had satisfactorily done the maintenance work for the aforesaid period, yet, the security as well as the maintenance payment is not being released to the petitioner as a result whereof, a legal notice was sent by the petitioner to the respondents on 01.11.2022 (Annexure P-2).

The respondents replied to the aforesaid legal notice vide letter dated 05.12.2022 (Annexure P-3) wherein they have admitted the due payment to the petitioner, however, it has been averred that the reasons for non-release thereof is that the payment is yet to be received from respondent No.3-The Chief Engineer, Punjab Roads & Development Board, SAS Nagar, Mohali.

Learned counsel appearing on behalf of the petitioner contends that despite the payment not being disputed, the same has not been released to the petitioner on account of one internal exigency or the other.

Notice of motion.

Ms. Niharika Sharma, A.A.G., Punjab, who is present in Court accepts notice on behalf of respondent No.1. Mr. Saurav Verma, Addl. A.G., Punjab, who would be deemed to be on the panel of all statutory Boards and Corporations of the State of Punjab by virtue of his appointment is requested to accept notice on behalf of respondent Nos.2 to 4.

On the asking of the Court, Mr. Saurav Verma, Addl. A.G., Punjab, accepts notice on behalf of respondent Nos.2 to 4. Counsel for the respondents are not in a position to controvert that in the absence of any factual dispute, admitted payment against the work satisfactorily executed has to be released.

Taking into consideration the circumstances noticed above and the fact that the payment in question is not being disputed by the respondents and the same is being delayed on the pretext that the payment in question has not been received by the employer-Punjab Mandi Board from the Punjab Roads & Development Board. The same cannot be perceived as a valid reason for not releasing the payment which is undisputed and is due in favour of a contractor for successful execution of the said work.

Accordingly, without commenting on the merits of the case, the present civil writ petition is disposed of with a direction to respondent No.4- The Executive Engineer (C), Punjab Mandi Board, Bathinda to release the due and undisputed payment to the petitioner within a period of three months from the date of receipt of a certified copy of this order.

Petition is disposed of.

January 09, 2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No