

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

230

CWP-1019-2020 (O&M).

Date of Decision: 10.05.2023.

THE MEHTABGARH CO-OPERATIVE LABOUR AND
CONSTRUCTION SOCIETY LIMITED

.. Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Varun Sharma, Advocate, for
Mr. Raman Sharma, Advocate,
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab,
for respondent No.1.

Mr. Maninder S. Saini, Advocate,
for respondent No.2.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed for seeking issuance of directions to the respondents to release the outstanding dues payable to the petitioner.

Learned counsel for the petitioner contends that the petitioner-Co-operative Labour and Construction Society has developed various infrastructure and construction projects for various Agencies including the State Agencies. Pursuant to the bids invited by the Jalandhar Improvement Trust i.e. respondent No.2, the Petitioner-Society had submitted its bid and was found successful and an agreement dated 20.01.2016 was thereafter

executed between the petitioner and respondent No.2 for execution of the work i.e. constructions of Streets from British Olivia School towards Gali No.8 and near Jaswant Singh Hospital in Jalandhar Central Constituency for a cost of Rs.26.59 lakhs. The time period within which the work had to be completed was four months. Petitioner successfully executed the aforesaid work in the year 2016 without any complaint regarding the workmanship and/or the defect. The claim was thereafter lodged by the petitioner for release of the balance payment including the security. A representation dated 17.01.2018 (Annexure P-4) was submitted by the petitioner, however, even though respondents did not dispute that the amount in question is due to the petitioner, however, the same has not been released.

Notice was issued to the respondents whereupon reply by way of short affidavit of Executive Officer, Improvement Trust, Jalandhar, on behalf of respondent No.2 has been filed today in the Court and a copy thereof has been furnished to the learned counsel for the petitioner.

A perusal of the aforesaid affidavit shows that the respondents do not dispute the liability and that the balance payment is due to the petitioner. The defence taken by non-release of the said payment is that they had already submitted a request to the Government for release of requisite funds so that the payment could be released in favour of the petitioner. The relevant extract of the said reply reads as under:-

“2. That the deponent had through letters dated 24.02.2020 and 8.05.2020 requested the Additional Chief Secretary, Department of Local Government, Punjab to release the remaining grants for the development works undertaken by the answering respondent in Jalandhar Central constituency. The answering respondent ha specifically mentioned about the pendency of the present writ petition wherein petitioner society

have sought release of balance payment of the work completed by them.

3. That the answering respondent has also requested the Additional Chief Secretary, Department of Local Bodies to get the requisite funds released from the Punjab Infrastructure Development Board so that payment can be made to the petitioners at the earliest.

4. That, however, the answering respondent has not received any funds till date from the concerned authority and therefore, they are unable as of now to clear the dues of the petitioner society. The release of the balance payment as sought by the petitioner society is solely contingent upon the release of funds by the concerned authority.”

I have heard the learned counsel for the respective parties and have gone through the documents filed on record.

In view of the specific response filed by respondent No.2 wherein it has acknowledged the liability of the amount payable to the petitioner, the present petition deserves to be allowed. The sole reason given by the respondents for non-release of the payment is that the requisite funds have not been released by the State Government. The same cannot in my opinion be a reason for respondents to continue sitting on the amount which is payable to a contractor who has satisfactorily discharged his obligations and as per the contract. Once the amount in question was due in the year 2018, there is no occasion as to why the respondents have not released the said amount despite lapse of nearly five years.

Accordingly, the present petition is allowed. The respondent-Corporation is directed to release the undisputed due amount payable to the petitioner within a period of 03 months of the passing of this order along

with interest @ 6% per annum from the date of filing of the petition till its actual disbursement.

May 10, 2023

raj arora

(VINOD S. BHARDWAJ)

JUDGE

Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No