

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

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CWP-2146-2023

Date of Decision: 03.02.2203

M/S RAJINDER KUMAR & CO.

... 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.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been instituted under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Mandamus directing the respondents to refund the security amount of Rs.6,18,584/- qua the work executed by the petitioner, alongwith interest @ 12% per annum.

Learned counsel for the petitioner contends that the petitioner had executed various works assigned to it from time to time and there has never been any complaint against the works executed by the petitioner. On 06.06.2016, the work of Upgradation and Maintenance of Road T-13 Lamochar Kalan Uttar to Jalalabad Puran Patti Road, Lenght km 0.00 to 9.68 = 9.68 Km. Package No.PB-05-112, under PMGSY-II, Batch -1, District Fazilka was allotted to the petitioner vide EED NO.709 dated 06.06.2016. He further contends that all the works allotted/assigned to the petitioner have been completed by the petitioner within stipulated time frame i.e. upto 06.10.2018 and the payment qua the said works has also been released to the petitioner but 50% security amount of Rs.12,37,168/-, which was deducted

from the bills, has not yet been released to the petitioner without any justifiable reason. Even the defect liability period of the aforesaid work has also been expired on 05.10.2019. However, the balance payment is not being released only on account of non-availability of funds. It is further averred that the petitioner made several representations followed by a legal notice dated 02.01.2023 (Annexure P-4) which has been served upon the respondents No.2 & 5 but no action has been taken thereupon till date.

Notice of motion.

Mr. Saurav Verma, Addl. A.G., Punjab accepts notice on behalf of the respondents and prays for some time to complete instructions and file reply.

Learned counsel for the petitioner submits that at this juncture, he would be satisfied if the respondent No.5- the Executive Engineer, Construction Division No.1, Public Works Department (B&R) Branch, Ferozepur is directed to consider and decide the legal notice dated 02.01.2023 (Annexure P-4) in a time bound manner.

Learned State Counsel does not oppose the prayer made by the learned counsel for the petitioner.

Accordingly, in view of the above and with the consent of the parties and without commenting anything on the merits of the case, the present petition is disposed of while directing the respondent No.5 to consider and decide the legal notice dated 02.01.2023 (Annexure P-4) by passing a reasoned and speaking order after affording an opportunity of hearing to the respective parties within a period of three months from the date of receipt of certified copy of this order.

Needless to mention that upon considering the said legal notice, if any amount is found due and payable to the petitioner, the same shall be disbursed in favour of the petitioner within a further period of three months.

03.02.2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No