

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

243

CWP-4491-2021
Date of decision: 25.05.2023

R.S LABOUR AND TRANSPORT CONTRACTORPetitioner

VERSUS

FOOD CORPORATION OF INDIA AND ORSRespondents

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

Present: - Mr. Alok Mittal, Advocate
for the petitioner.

Mr. K.K. Gupta, Advocate
for respondents-FCI.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India for seeking issuance of directions to the respondents to clear the outstanding dues of the petitioner to the tune of Rs. 11,91,313/- alongwith interest from the date it fell due till its realization.

2. Learned counsel appearing on behalf of the petitioner contend that the petitioner is a Contractor engaged in the business of carrying out transport services and handling services of the respondent organization. NIT for tender enquiry had been issued by the respondents on 12.12.2019 inviting tenders for appointment of ADHOC Road Transport Contractors for

route Julana to Jaipur. Pursuant to the above-said NIT, the petitioners submitted its bid and was declared successful being the lowest bidder. A letter of allotment was thereafter issued to the petitioner accepting the rates quoted by it on 17.12.2019. The petitioner was called upon to join as ADHOC Road Transport Contractor from route Julana to Jaipur vide letter dated 23.12.2019. The approval for the execution of the work was communicated vide letter dated 14.01.2020 and the petitioner was informed that the approval of the competent authority has been taken to take the work of ADHOC Road Transport Contract Julana to Jaipur for an amount of Rs. 50 lacs. The security and bank guarantee were accordingly deposited by the petitioner in terms of the communication so addressed to him.

3. That the petitioner claims that he had been regularly submitting its bills and the respondents had been making the payments, however, the bills bearing No. 4 dated 05.05.2020 for the period 01.03.2020 to 17.03.2020 for an amount of Rs.19,62,902/- was approved and only a part payment of Rs.7,71,589/- was approved and the balance amount of Rs. 11,91,313/- was withheld for awaiting approval of the excess amount from the FCI HRO, Panchkula. Communication in this regard was sent to the petitioner vide letter dated 10.06.2020 (Annexure P-6). The stoppage of the balance payment was only on account of the administrative approval to be sought by the respondent authority from the FCI HRO, Panchkula and not on account of any deficiency or defect and/or recovery to be effected from the petitioner. Subsequent letters were also sent by the petitioner to the respondent authorities requesting them for release of the outstanding amount, however, the needful was not done. The information furnished to the petitioner is that since the NIT for the work was for an amount of Rs. 50

lacs and the petitioner has performed the work for more than the said amount, the Ex-post facto approval thereof is required to be obtained from the HRO and the payment cannot be released till such approval is granted.

4. He further refers to the letter dated 31.08.2020 sent by the office of the Divisional Manager, Rohtak to the Assistant General Manager, FCI in the Regional Office, Haryana for seeking Ex-post facto approval of the competent authority for making the balance payment since the work is already been satisfactorily performed by the petitioner in the time of Covid-19 lockdown and strictly in the interest of Corporation.

5. Learned counsel for the respondent-FCI submits that they have already sent the file to the competent authority for seeking the Ex-post facto approval as and when the said approval is granted, the balance payment shall be released.

6. Taking into consideration, the contentions made by the respective parties and the fact that the execution of the work and the payment being due is not being disputed and the only reason assigned by the respondents for failure to make payment is that the Ex-post facto approval from the competent authority is awaited despite the letters/communication having been sent to the competent authority in the year 2020. I am inclined to allow the present petition with a direction that the respondent-authorities shall complete their necessary formalities and shall release the outstanding payment of the petitioner within a period of three months from the date of receipt of certified copy of this order. It is made clear that in case the payment is not released within the aforesaid period, the petitioner shall be

CWP-4491-2021

entitled to interest @ 6% per annum from the date of filing of the present petition.

(VINOD S. BHARDWAJ)
JUDGE

MAY 25, 2023
Vishal Sharma

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