

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

129

CWP-4344-2023

Date of Decision: 02.03.2023

TARSEM KUMAR

... Petitioner

VERSUS

THE STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Chirag Girdhar, Advocate for
Mr. R.K. 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 make the due payment of Rs.2,25,00,000/- including security qua the balance work of Construction of 50 Bedded Tertiary Cancer Centre at Fazilka 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. The petitioner had got the tender of aforesaid work by way of submitting an bid and the total cost of the said work was Rs.7,41,85,000/-. Upon completion of all documentary formalities, the petitioner immediately commenced the work and successfully accomplished the same on 31.03.2022. Various part payments were released in favour of the petitioner, but an amount of Rs.1,65,00,000/- is still outstanding and has not been paid to the petitioner till date. Besides, the petitioner is also entitled for refund of Rs.35,00,000/- and

moreover, an amount of Rs.25,00,000/- on account of the same work from the first agreement is also due to be paid to the petitioner and as such, a total amount of Rs.2,25,00,000/- is still outstanding towards the respondents. The petitioner served a legal notice dated 19.09.2022 upon the respondents, but neither the payment has been made nor has the reply to the said legal notice been sent by the respondents. Even after that, the petitioner submitted various representations but of no avail. Recently on 07.01.2023 (Annexure P-4), the petitioner has again served a legal notice upon the respondents for seeking release of his outstanding amount, but no action has yet been taken by the respondents thereupon.

Notice of motion.

Mr. Vishnav Gandhi, DAG, Punjab, who is present in the Court, accepts notice on behalf of respondent No.1 and prays for time to seeks instructions and file response, if necessary.

Mr. Saurav Verma, Addl. A.G., Punjab, who by virtue of his assignment is also on the panel of all the statutory corporations and bodies of the Government of Punjab, is directed to accept notice on behalf of the respondents No.2 to 4. Hence, he accepts notice on behalf of the respondents No.2 to 4 and also prays for some time to complete instructions and file response.

Learned counsel for the petitioner submits that at this juncture, he would be satisfied if the respondent No.4- the Executive Engineer (Civil), Punjab Health Systems Corporation, # 219-220, New OPD Ward, Civil Hospital Complex, Bathinda is directed to consider and decide the legal notice dated 07.01.2023 (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.4 to consider and decide the legal notice dated 07.01.2023 (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.

02.03.2023
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(VINOD S. BHARDWAJ)
JUDGE

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