

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CWP-6225-2023
Date of decision: 24.03.2023

M/S GARG AND COMPANY

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

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

Mr. Vivek Saini, Addl. A.G. Haryana
for the respondents.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing the respondents to decide the representation dated 30.10.2021 moved by the petitioner (Annexure P-1).

Learned counsel appearing on behalf of the petitioner contends that the petitioner was allotted various building works of the Ambala Circle by the respondent-department and the details of the said works are mentioned in Para No.2 of the writ petition. The agreement empowered the employer to deduct retention money from the running bills & subject to a maximum of 5% of the agreement amount. The said amount could be claimed on completion of the work and on expiry of defect liability.

However, it also enabled release of money on unconditional Bank Guarantee. The petitioner accordingly submitted an application for release of the retention money as per Clause 48.1. of the agreement dated 30.10.2021. However, no decision has been taken thereupon by the Superintending Engineer.

The petitioner contends that similar clause was also incorporated in the other contracts executed by him pertaining to construction of ITI at Shahabad in District Kurukshetra. A similar request was made there and the same was declined. The petitioner filed CWP-22685-2021 which was decided vide judgement dated 16.03.2023.

Learned counsel appearing on behalf of the petitioner contends that he would be satisfied at this juncture in case the respondent No.5-Superintending Engineer, Ambala Circle, Public Works Department, B & R, Ambala Cantt. is directed to look into the representations dated 30.10.2021 and to pass a reasoned and speaking order thereupon in a time bound manner after considering the legal position.

Notice of motion.

Mr. Vivek Saini, Addl. A.G. Haryana appears and accepts notice on behalf of respondents and has no objection in the event the above prayer of the petitioner is accepted.

Accordingly, the present petition is disposed of with consent of the parties and without commenting on the merits of the claim, with a direction to respondent No.5-Superintending Engineer, Ambala Circle, Public Works Department, B & R, Ambala Cantt. to examine the grievance espoused by the petitioner in the representation dated 30.10.2021 and to pass a reasoned and speaking order thereupon within a period of 03 months

of the receipt of certified copy of this order after affording an opportunity of hearing to the respective parties.

The petition is accordingly disposed of.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 24, 2023
Vishal Sharma

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