

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

278

CWP-8571-2023
Date of Decision: 01.08.2023

M/S G.K. CONSTRUCTIONS

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. R.K. Girdhar, Advocate and
Mr. Chirag Girdhar, Advocate
for the petitioner.

Ms. Lavanya Paul, DAG, Punjab.

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 release the due payment of Rs.5,12,476/- qua the work of special repair of 5 Nos. link roads in Assembly Constituency Guruharsai (under PIDB Funds) (Gr. No.2) 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 14.06.2016, the aforesaid work was allotted to the petitioner vide EE No.C-1 FZR, Sanction No.840 dated 14.06.2016 and agreement No.37 of 2016-17. The petitioner immediately commenced the work and successfully completed the same on 14.02.2018 to the complete satisfaction of the respondents. The

payment of all running bills, except the 7th and final bill, has already been made to the petitioner. The 7th and final bill has already been passed and pre-audited for an amount of Rs.5,12,476/-. However, the same has been withheld by the respondents without assigning any valid cause. The petitioner got served a legal notice dated 16.07.2020, however, no action was taken thereupon. Thereafter, the petitioner filed a petition bearing No.CWP-16360 of 2020, which was disposed by this Court while directing the respondent No.6 to consider and decide the said legal notice within a period of two months, and in case, any amount is found due towards the petitioner, the same be disbursed within a further period of one month. In default thereof, interest @ 7% per annum was also granted from the date of accrual till actual realization. Even though there were no dispute qua the execution of the work as well as with regard to the 7th and final bill having been passed by the respondent-Department, however, the respondent No.6 passed a speaking order dated 04.12.2020 thereby declining the claim of the petitioner on the ground that the agreement between the parties was for an amount of Rs.1,50,73,624/- and the said amount has already been paid to the petitioner. Aggrieved thereof, the petitioner again served a legal notice dated 17.09.2022 (Annexure P-5) upon respondent No.5 calling upon him to reconsider the speaking order dated 04.12.2020 and by way of the said legal notice, the petitioner has again raised the demand for releasing the amount as per 7th and final bill. But neither any action has been taken thereupon till date nor has the payment been made so far.

Pursuant to the notice issued by this Court, Ms. Lavanya Paul, DAG, Punjab has appeared on behalf of respondents and sought 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.5- Executive Engineer, Construction Division No.1, PWD B&R Branch, Ferozepur is directed to consider and decide the legal notice dated 17.09.2022 (Annexure P-5) in a time bound manner.

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

Accordingly, in view of the above, 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 17.09.2022 (Annexure P-5) 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.

AUGUST 01, 2023

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**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No