

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

112

CWP-9698-2023 (O&M).

Date of Decision: 05.05.2023.

Kulwant Singh

.. Petitioner

Versus

State of Punjab and others

... Respondents

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

Present: Mr. Dilpreet Singh Gandhi, Advocate,
for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed for seeking release of an outstanding amount of Rs.2,22,600/- for the accessories claimed to have been supplied by the petitioner to respondents.

Learned counsel appearing on behalf of the petitioner contends that the respondent-Department had ordered huge quantities of tent house accessories for the event happening in the city and to help out the survivors of the floods in the year 2019 in Punjab where respondent-Department had to distribute essential goods to the survivors. Accessories like mats, tables, chairs, generators and search lights etc. had been supplied from the petitioner's shop from 23.08.2019 to 10.09.2019 i.e. for a period of 19 days and the bills in this regard were duly raised on 10.09.2019.

It is contended that even though the respondents are stated to have given an assurance that the bills raised shall be released, however, the needful was not done. The respondent-Authorities even moved a resolution for sanction of an additional amount of Rs.10 lakhs towards repayment of

such expenses vide Resolution No.09 dated 01.10.2019 (Annexure P-2) and a request was thereafter forwarded by the office of Market Committee, Sultanpur Lodhi to the Chairman of Punjab Mandi Board, Mohali, to sanction the additional budget of Rs.10 lakhs required by the Committee for the said purpose. He contends that despite the payment being overdue and numerous representations having been sent by the petitioner, the respondent Authorities have chosen neither to respond to the said representations nor release the due payment in question. He thus contends that the respondent-Department be directed to decide the claim submitted by the petitioner vide legal notice dated 08.02.2023 (Annexure P-7) and in the event any payment is found due, to release the same in a time bound manner.

I have heard the learned counsel appearing on behalf of the petitioner and have gone through the documents appended with the present petition.

A perusal of the documents placed on record, however, fails to establish the following:-

- (i) There is no work order/letter of intent issued by the respondent-Authorities calling upon the petitioner to execute the work;
- (ii) There is no document placed on record on the basis whereof it can be ascertained that the aforesaid accessories had been received by the officials concerned; and
- (iii) There is no acknowledgement of any liability by the respondent-Department within the currency of the period of

limitation and consequently, the claim in question is *ex facie* barred by limitation.

Learned counsel appearing on behalf of the petitioner was put a specific query to refer to any document/acknowledgement whereby the limitation may be construed to be still alive for entertaining the aforesaid claim, assuming for the sake of arguments that the supply in question had actually been made by the petitioner.

Learned counsel appearing on behalf of the petitioner, however, fairly submits that he is currently not in possession of any such communication/response from the respondent-Authorities on the basis whereof an acknowledgment or admission of liability may be determined. He, however, contends that the petitioner had been diligently submitting representation to the respondent-Authorities.

Be that as it may, submission of representations cannot be construed as an extension of the period of limitation. Article 22 of the Limitation Act, 1963 is very categoric and the prescribed period of limitation for seeking recovery of the amount from any agency/instrumentality or a person is 03 years from the date when the amount fell due. For the purpose of seeking the extension of period of limitation, the acknowledgement and admission of liability must be there within the period of the limitation itself. Submission of representations by itself cannot extend the limitation that has already come to an end.

The Hon'ble Supreme Court in the matter of **Surjeet Singh Sahni Vs State of U.P. and others, in Special Leave Petition (C) No.3008 of 2022, decided on 28.02.2022**, has held that the Courts should refrain from passing mechanical orders directing Authorities to decide the

representations which have the effect of reviving the period of limitation that had already come to an end. There are various legal aspects that are required to be kept in mind including the limitation before any such direction is issued. The relevant extract of the aforesaid judgment reads as under:-

“4. We have come across number of such orders passed by the High Courts directing the authorities to decide the representation though the representations are made belatedly and thereafter when a decision is taken on such representation, thereafter it can be said on behalf of the petitioner that the fresh cause of action has arisen on rejection of the representation. Therefore, when such orders are passed by the High Courts either relegating the petitioner to make a representation and/or directing the appropriate authority to decide the representation, the High Courts have to consider whether the writ petition is filed belatedly and/or the same is barred by laches and/or not, so that in future the person who has approached belatedly may not contend that the fresh cause of action has arisen on rejection of the representation. Even in a case where earlier representation is rejected, the High Court shall decide the matter on merits.

5. As observed by this Court in catena of decisions, mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within reasonable time. If it is found that the writ petitioner is guilty of delay and laches, the High Court should dismiss it at the threshold and ought not to dispose of the writ petition by relegating the writ petitioner to file a representation and/or directing the authority to decide the representation, once it is found that the original writ petitioner is guilty of delay and laches. Such order shall not give an opportunity to the

petitioner to thereafter contend that rejection of the representation subsequently has given a fresh cause of action.”

The Law of Limitation is not just an empty formality. It has a far reaching impact on right of a person to seek recourse to legal remedies. Even though it might appear to conscience to be an unfair bargain, however, law of limitation intends to restrict the remedies through Court. No explanation has also been given by the petitioner as to why he chose to stay quiet in the matter and not claim his dues, if any. Nothing has been brought before the Court as to why the rigors of Law of Limitation be not applied to the present case.

Taking into consideration the law laid down by the Hon’ble Supreme Court in the matter of **Surjeet Singh Sahni (supra)** and in view of absence of any document to substantiate that the claim in question is validly due and is within the period of limitation, I find that there are no merits in the present petition for issuing directions to the respondents to release the payments. The petition is accordingly dismissed.

May 05, 2023.

raj arora

(VINOD S. BHARDWAJ)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No