

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

114

CWP-10632-2023
Date of Decision: 17.05.2023

M/S B.G. CONSTRUCTION COMPANY

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: 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 release the due payment of Rs.23,40,313/- qua the work of Construction of Administrative Block including GIS Lab Informatics and Statistical Unit Agronomy Lab, Genomic Selection Lab and Multipurpose Hall etc. in BISA Headquarter at Ladhowal, District Ludhiana as per approved DNIT, executed by the petitioner alongwith interest @ 12% per annum.

Learned counsel for the petitioner contends that the petitioner had executed various works assigned to him from time to time and there has never been any complaint against the works executed by the petitioner. On 21.08.2017, the aforesaid work was allotted to the petitioner vide EE Sanction No.1103 dated 21.08.2017. The petitioner immediately commenced

the work on 21.08.2017 and successfully completed the same on 15.04.2020. Initially the cost of the work was Rs.7,70,32,370/- but later on it was enhanced and the respondents got executed the work amounting to Rs.9,02,57,365/-. Further, as per performance certificate dated 28.10.2020, which has been issued by respondent No.4, it has been certified that the petitioner has completed the allotted work. It is further averred that the petitioner had raised the final bill of Rs.68,35,963/- which was passed on 18.11.2021 and out of the same, an amount of Rs.44,95,896/- has already been paid on 18.11.2021 itself, but the remaining amount of Rs.23,40,313/- has been withheld by the respondents on the ground of paucity of funds. It is further submitted that after the expiry of defect liability period, the 5% security amount, deducted from the bills, has also been paid to the petitioner, but the balance amount of Rs.23,40,313/- has not been paid till date. The petitioner submitted numerous representations including the latest legal notice dated 17.03.2023 (Annexure P-4) which was served upon respondent No.4, but no action has been taken thereupon till date.

Notice of motion.

Ms. Niharika Sharma, AAG, Punjab accepts notice on behalf of respondents prays for some time to file response, if any.

Learned counsel for the petitioner, however, submits that at this juncture, he would be satisfied if respondent No.4- The Executive Engineer, Construction Division No.1, PWD(B&R) Division No.1, Ludhiana is directed to consider and decide the legal notice dated 17.03.2023 (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, with the consent of the parties and without commenting anything on the merits of the case, the present petition is disposed of while directing respondent No.4 to consider and decide the legal notice dated 17.03.2023 (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 his favour within a further period of three months.

Petition stands disposed of accordingly.

17.05.2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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