

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

234

CWP-19515-2020 (O&M).
Date of Decision: 16.05.2023.

RAKESH KUMAR

.. Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Sandeep Kumar Bokolia, Advocate,
for the petitioner.

Mr. Deepanjay Sharma, DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition raises a challenge to the order dated 27.09.2020 (Annexure P-1) passed by respondent No.2 whereby the claim for interest on delayed payment has been rejected.

Learned counsel for the petitioner contends that the petitioner was allotted the work namely "Repairing damaged embankment at RD 173200 of 3-R Bandhon R/s River Sutlej Breach occurred due to heavy floods during August 2019 in District Jalandhar, near Village Gatta Mandi, Kasu vide work order dated 24.08.2019 along with allied damages work that were to be undertaken. The estimated project cost was Rs.95 lakhs. The necessary sanction to execute the said work was granted at CSR+SP rates.

It is further contended that the petitioner had been directed to complete the above said work in a time bound manner and the same was satisfactorily executed. However, payment of the petitioner was not being released. The petitioner approached this Court vide CWP No.7289 of 2020 seeking issuance of directions to the respondents to release the payment along with interest that had become due to the petitioner for delay despite successful execution of the aforesaid work. During the pendency of the said writ petition, the due payment had been released to the petitioner and the only issue that remained was pertaining to interest on delayed payment. The said writ petition was hence disposed of vide order dated 30.07.2020 directing the respondents to take a decision on the issue pertaining to interest on delayed payment by passing a speaking order expeditiously but not later than 30th September 2020. In compliance of the order dated 30.07.2020, the respondents have passed a speaking order dated 27.09.2020 declining the claim of the petitioner for the grant of interest. Hence, the present petition.

Response on behalf of the respondents had been filed wherein they have submitted that due payment admissible to the petitioner had already been released and that the claim of the petitioner for interest on such delayed payment has been rejected by passing a speaking order. As per Clause 30 of the Bid document for execution of work orders issued by the Government of Punjab, Department of Irrigation, the disputes in relation to payments are arbitrable and that in the event the petitioner preferring any such representation, appropriate decision shall be taken in terms of the said clause.

It is also submitted that the Executive Engineer recorded in his order that the work had been allotted to the petitioner on the basis of emergency and the payment was made without any delay after taking approval from the Competent Authority. Due to hardships of Covid -19, there was some delay, however, the same has been duly explained in the said order.

Without commenting upon the merits of the present case lest it may cause prejudice the rights accrued in favour of the respective parties and taking into consideration that disputed questions of fact would arise for determination and the petitioner has an efficacious alternative remedy including taking recourse to the arbitration as per the DNIT, the present petition is disposed of at this stage with liberty to the petitioner to take recourse to the alternative remedies available to him in accordance with law.

May 16, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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