

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

203

CWP-4556-2018 (O&M).

Date of Decision: 14.07.2023.

M/S SAINIK SURVEILLANCE SERVICE PVT. LIMITED AND
ANOTHER

.. Petitioners

Versus

HARYANA STATE COUNCIL FOR SCIENCE AND
TECHNOLOGY

... Respondents

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

Present: Mr. Keshav Gupta, Advocate,
for the petitioners.

Mr. Kapil Aggarwal, Advocate,
for the respondent.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 09.08.2016 (Annexure P-19) whereby the respondent has wrongly withheld the admissible dues to the petitioner.

It has been contended by the learned counsel for the petitioners that the petitioner had applied for the job of 'Monitoring the incoming and outgoing movements of persons and material as well as safety equipments, office record, furniture and other assets at the office building of Haryana State Council for Science and Technology at Panchkula pursuant to the tender notice floated by the respondent. The above said work was allotted to the petitioner vide letter dated 22.09.2011. Petitioner accordingly deposited a sum of Rs.2,00,000/- (Rupees Two Lakhs) with the respondent on 22.09.2011. The petitioner raised various bills pursuant to the execution of the work by him, however, the payments were not remitted in violation of

the contractual clauses and the amount has been wrongly withheld by the respondent. A reference is also placed to the letters dated 09.04.2014, 25.04.2014 and 21.05.2014 issued by the respondent wherein respondent acknowledged the liability towards the petitioner. Finally, a legal notice was sent by the petitioner which was replied to vide communication dated 09.08.2016 which is impugned herein.

It has been averred in the aforesaid response that the reason for withholding the payment of the petitioner is that the EPF/ESI payments have not been deposited by the petitioner with the competent Authority.

Learned counsel for the petitioner refers to the Voucher appended as Annexure P-15 to submit that necessary contributions have already been deposited by the petitioner with the Regional Provident Fund Commissioner and there was no outstanding. Hence, the reason given by the respondent for denying the release of the payment is ill-founded.

Reply on behalf of the respondent has been filed wherein while responding to the averments contained in paragraph No.11 dealing with the deposit with the EPF/ESI contributions, the respondent has not disputed the voucher appended along with the writ petition. In the absence of the aforesaid deposit being disputed or denied by the respondent, there is no option but to presume that the deposit has been validly made. Accordingly, the act of the respondent in withholding the release of the dues in favour of the petitioner for the above said reason was clearly misconceived and is an apparent abuse of the authority.

Learned counsel appearing on behalf of the respondent has also made a reference that there is an arbitration clause in the agreement and that the petitioner may if so advised take recourse to the arbitration for

settlement of his dispute. The above said submission of the counsel for the respondent fails to impress this Court especially when the amount in question is neither disputed nor held not payable.

The cause for withholding the payment is also not sustainable in view of the vouchers placed on record by the petitioner. Referring to an artificial dispute so as to prolong withholding of an amount illegally is clearly a perversity of justice. The respondent cannot be permitted to take shield of its act which is per se illegal and have no sanctity in the eyes of law. The said contention is thus dismissed for the said reason.

The present petition is accordingly allowed. The respondent shall release the amount wrongly withheld by it within a period of 04 weeks from today along with interest @ 6% per annum from the date when the payment became due. A further costs of Rs.20,000/- is imposed upon the respondent-Haryana State Council for Science and Technology, for forcing the petitioner to undergo an unrequisited litigation.

July 14, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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