

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

125

CWP-21762-2023
Date of Decision: 28.09.2023

M/S ASIS BUILDERS

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: None 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.1,57,02,073/- qua the work of Construction of Retaining Wall and Approaches near Jagraon Bridge, Ludhiana executed by the petitioner, alongwith interest @ 18% per annum.

It has been averred in the petition 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 03.10.2019, the abovementioned work was allotted to the petitioner vide Work Order G-33 No.18/EED dated 03.10.2019 for an amount of Rs.1,76,04,877/-. The petitioner immediately commenced the work and successfully completed the same till 31.08.2020. It is further averred that due to increase in the scope of work, the cost of the work was enhanced upto Rs.2,20,60,000/-, however, the respondents got the work done from the petitioner for a total amount of Rs.2,60,16,706/- and

also they had assured that the due payment shall be released. Out of the said amount, the respondents released an amount of Rs.1,63,39,350/- qua 1st and 2nd running bills. However, they did not release the balance amount of Rs.96,77,356/- apart from the earnest money of Rs.3,52,980/-. Besides, the petitioner is entitled for escalation charges also, which comes to Rs.15,29,500/- for adjustment of cement and another amount of Rs.25,32,500/- for adjustment of steel. Apart from the above, the petitioner is further entitled for release of security amount of Rs.16,33,930/-. The sum total of the abovesaid amounts comes to Rs.1,57,02,073/-, which has been withheld by the respondents without any valid reason. The petitioner made several requests to the respondents to release the aforesaid amount but all in vain. Lastly the petitioner got served a legal notice dated 25.08.2023 (Annexure P-4) on respondent No.3; but the respondents have neither taken any action thereupon nor did they make the payment of outstanding amount.

However, in the considerate opinion of this Court, it would be appropriate and in the fitness of things if respondent No.3 –Municipal Corporation, Ludhiana through its Commissioner, is directed to consider and decide the legal notice dated 25.08.2023 (Annexure P-4) in a time bound manner.

Accordingly, in view of the above and without commenting anything on the merits of the case, the present petition is disposed of while directing respondent No.3 to consider and decide the legal notice dated 25.08.2023 (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 favour of the petitioner within a further period of three months.

Petition stands disposed of accordingly.

Parties be informed accordingly.

SEPTEMBER 28, 2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No