

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

215

CWP-33968-2019
Date of Decision: 19.09.2023

MULAKHJIT SINGH

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Ms. Diksha Verma, Advocate for
Mr. Harchand Singh Batth, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking release of payment of Rs.16,92,202/- (Rs.7,19,234/- for agreement No.24 + Rs.6,22,952/- for agreement No.25 + Rs.3,50,016/- for agreement No.26) due towards the petitioner for the construction work carried out by him in agreement No.24/2014-15, 25/2014-15 and 26/2014-15 for the respondents, alongwith interest @ 18% per annum on the delayed payment.

Written statement on behalf of the respondents had been filed 23.03.2022, wherein it has been averred as under:

“4. That contents of para 4 of writ petition are wrong hence denied. There were some defects in the works executed by the petitioner for which the petitioner has himself admitted in the affidavit (ANNEXURE R-2) that the said defects were removed by him and he had stated in the affidavit that the delay in submission and passing of bills is due to above

reasons for which the SDE Provincial sub Division, Patti (Respondent No. 3) and Executive Engineer Construction Division No. 2 PWD BGR Amritsar (Respondent No. 2) are not responsible and he will not claim any interest on delayed payment or will not file the Court Case regarding the above bills. That the payments were made to the petitioner on 31-10-2019 vide following vouchers:-

- i) For work at Serial No.1, the payment of 2nd & final bill was made vide voucher No. 13 dated 31-10-2019 amounting to Rs.9,90, 773/- after making statutory deductions such as Income Tax, Labour Cess and GST (net payment Rs.9,41,233/- (ANNEXURE R-3).*
 - ii) For work at Serial No. 2, the payment of 2nd & final bill was made vide voucher No.14 dated 31-10-2019 amounting to Rs.9,94,648/- after making statutory deductions such as Income Tax, Labour Cess and GST (net payment Rs. 9,44,914/- (ANNEXURE R-4).*
 - iii) For work at Serial No. 3, the payment of 2nd & final bill was made vide voucher No.15 dated 31-10-2019 amounting to Rs.4,53,019/- (net payment Nil) (ANNEXURE R-5).*
- 5. That contents of para 5 of writ petition are wrong hence denied. The petitioner had not submitted the final bills to the respondent No. 3 for making the payments. The final payments of the above works as mentioned in Para No. 4 were made to the petitioner on submission of bills by respondent No. 3 to respondent No. 2.*
 - 6. That contents of para 6 of writ petition are wrong hence denied. The payments of petitioner for the works executed by him were not with-held by the respondents. That the delay in making the payments has been admitted by the petitioner himself in the affidavit (ANNEXURE R-2) given by him. The final payments of the works done by the petitioner for all the above three works were made to the petitioner by the*

respondents on 31-10-2019; which were duly received by him and he has signed on all these bills in token of having received the amount without any objection.

7. *That the contents of Para No.7 are denied being wrong. The payments of the works executed by the petitioner were made to him amounting to Rs.9,41,233 + 9,44,914 total Rs.18,86,147/- vide cheque No.132 dated 31-10-2019 which were received by him without any objection. That the respondents are not at fault for delay in making the payments. That the delay in making the payments has been admitted by the petitioner himself in the affidavit given by the petitioner (ANNEXURE R-2)."*

It is the stand of the respondents that the payments qua the works executed by the petitioner have already been released and an affidavit has also been furnished by the petitioner in this regard. It is further referred that Clause 25 of the general conditions of the Contract provides for alternative mechanism for resolution of the dispute. An Arbitration provision has been provided thereunder. It has also been submitted therein that the delay in releasing the payment for the works executed by the petitioner is attributable to the petitioner himself and not to the respondents-Department.

Even though the written statement had been filed by the respondents on 22.03.2022 and a period of nearly one and a half year has already elapsed since then, however, no replication/rejoinder has been filed so far controverting the abovesaid factual matrix.

Hence, the question with regard to the disbursement of the dues and/or interest on account of delay, if any, which may be on the part of the petitioner and/or the respondents-Department is a disputed question of fact and the same cannot be gone into by this Court.

Taking into consideration that the alternative mode/mechanism for amicable resolution of dispute has been provided coupled with the remedy to seek adjudication of the matter through Arbitration, the present petition is disposed of in view of the disputed questions of facts, with liberty to the petitioner to take recourse to the alternative remedies available to him in accordance with law.

SEPTEMBER 19, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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