

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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**CWP-25801-2023
Date of Decision: 16.11.2023**

MUKESH KUMAR CONTRACTOR

... Petitioner

VERSUS

THE STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Navneet Jindal, 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.60,42,933/- alongwith security amount of Rs.33,10,653/- alongwith interest @ 18% p.a.

Learned counsel for the petitioner contends that the petitioner was allotted the work of construction of Hedgwar Meeting Hall at Bawani Khera, Tender ID 2018_HRY_61373_1 dated 09.04.2018 vide work order bearing Memo No.195/MCBK dated 13.06.2018. The petitioner commenced the work and bills were raised from time to time which were passed after verification and testing of the materials used. However the payment of 8th and final bill amounting to Rs.60,42,933/- (wrongly mentioned as Rs.60,42,923/-), which has been duly verified and entered in the measurement book, has not been released

till date. Apart therefrom, security amount of Rs.33,10,653/- is also outstanding towards the respondents. Thus a total amount of Rs.93,53,586/- (wrongly mentioned as Rs.93,53,585/-) is due towards the petitioner. Even the defect liability period has also been elapsed but the payment is still awaited. The respondents conveyed to the petitioner that the payment could not be made due to paucity of funds. The petitioner approached the respondents for a number of times, but nothing fruitful could be fetched. Thereafter, the petitioner served a legal notice dated 07.10.2023 (Annexure P-5) upon the respondents, but no action has been taken thereupon till date by respondents No.1, 2 and 4; whereas respondent No.3 has sent a formal and vague reply to the same through counsel, Mr. Navneet Jindal, Advocate wherein he has raised lame excuses and has referred to certain letters pointing out certain shortcomings in the work executed by the petitioner, notwithstanding that the defect liability period had already come to an end. At this stage, the respondent No.3, however, cannot raise such objections. It is further submitted that apart from sending a vague reply by respondent No.3, no action has been taken upon the said legal notice dated 07.10.2023 (Annexure P-5); whereas, the respondents ought to have passed a reasoned and speaking order thereupon. All requests made by the petitioner with regard to his grievance have gone unheard. Hence, the present petition.

Notice of motion.

Mr. Pankaj Mulwani, DAG, Haryana accepts notice on behalf of respondents No.1, 2 and 4 and prays for some time to complete instructions and file response, if necessary.

Mr. Vivek Saini, Addl. A.G., Haryana, who by virtue of his assignment is also on the panel of all the statutory corporations and bodies of the Government of Haryana, is directed to accept notice on behalf of respondent No.3. Hence, he accepts notice on behalf of the said respondent and also prays for some time to complete instructions and file response.

Learned counsel for the petitioner, however, submits that at this juncture, he would be satisfied if respondent No.3- Secretary, Municipal Committee, Bawani Khera, Bhiwani, Haryana is directed to consider and decide the legal notice dated 07.10.2023 (Annexure P-5) in a time bound manner.

Learned counsel for the respective respondents do not oppose the prayer made by 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.3 to consider and decide the legal notice dated 07.10.2023 (Annexure P-5) 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.

16.11.2023
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(VINOD S. BHARDWAJ)
JUDGE

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