

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

114

**CWP-26441-2023
Date of Decision: 24.11.2023**

THE JANTA DHALE KE CO-OP. L & C SOCIETY LTD. MOGA

..... Petitioner

VERSUS

THE STATE OF PUNJAB AND OTHERS

.... Respondents

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

Present: Mr. Tajinder Pal Singh Makkar, 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 make the payment of Rs. 09,19,615/- qua the works executed by the petitioner, alongwith interest @ 12% per annum.

Learned counsel for the petitioner contends that the petitioner is a Government contractor and has executed various work assigned to him from time to time and there has never been any complaint against the work executed by the petitioner. The work of development of parks in various parts of Moga City was allotted to the petitioner vide work order no.44/67 dated 13.08.2021. The plants as per the work order were supplied in the month of November 2021. Thereafter, in 2022 due to imposition of the code

of conduct imposed as a result of Vidhan Sabha Elections and thereafter due to the starting of winter season the work of plantation of the plants could not be started. However, after the removal of the code of conduct, the work of plantation of plants in various parks was started and due to shortage of gardeners in the office of respondent department the work was not completed. He further contends that in the meanwhile payment of 3 running bills have been released to the petitioner. However, the outstanding amount regarding the above mentioned work (Annexure P-2) was not released to the petitioner and he was constrained to send legal notice dated 26.08.2022 for release of the said outstanding amount, but the same has not been decided till date.

Thereafter, the petitioner filed CWP-24086 of 2022 which was disposed of by this Hon'ble Court vide order dated 18.10.2022 with a direction to the respondent no.3 to consider and decide the legal notice dated 26.08.2022 (Annexure P-4) by passing a reasoned and speaking order after affording an opportunity of hearing to the petitioner, within a period of 3 months from the date of receipt of certified copy of this order. It was also directed 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 3 months.

However, the directions issued by this Hon'ble Court were not complied with by the respondents and the petitioner filed COCP-726 of 2023 before this Court. During the pendency of the COCP-726 of 2023, the respondent authority passed a speaking order and directed the petitioner society to complete the work of plantation within 2 months and thereafter, the bill will be prepared for work done and the payment will be released.

Learned counsel for the petitioner further averred that the petitioner immediately started the work and completed the same within few days, which was checked by the senior officials of the respondent department. After completion of the work, the petitioner also informed the respondent department that an amount of Rs.9,19,651/- is pending payable towards the petitioner on account of the above mentioned work. The petitioner approached the respondents for a number of times, but nothing fruitful could be fetched. Thereafter, the petitioner submitted numerous representations including latest representation dated 17.08.2023 (Annexure P-10) upon respondent No.3-the Commissioner, Municipal Corporation, Moga but the respondents-authorities neither responded to the same nor did they make the payment of outstanding amount to the petitioner.

Notice of motion.

Mr. Teevar Sharma, Asstt. A.G. Punjab appears and accepts notice on behalf of respondents No.1.

Mr. Saurav Verma, who is the Additional Advocate General Punjab and would thus be on the panel of all statutory Board and Corporations of the State of Punjab has been requested to accept notice on behalf of the respondent No.2 to 4-Municipal Corporation, Moga.

On the asking of the Court, he accepts notice on behalf of respondent No.2 to 4-Municipal Corporation, Moga.

Learned counsel for the petitioner, however, submits that at this juncture, he would be satisfied if respondent No.3-the Commissioner, Municipal Corporation, Moga is directed to consider and decide the representation dated 17.08.2023 (Annexure P-10) in a time bound manner.

Learned counsel for the respondents does 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-the Commissioner, Municipal Corporation, Moga to consider and decide the representation dated 17.08.2023 (Annexure P-10) 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 representation, 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.

NOVEMBER 24, 2023
Vishal sharma

(VINOD S. BHARDWAJ)
JUDGE

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