

AD-22
Ct No.09
29.04.2024
TN

WPA No. 9144 of 2024

Maxmen and another
Vs.
The State of West Bengal and others

Ms. Sanghamitra Nandy

.... for the petitioners

Mr. P.L. Bandyopadhyay

.... for the State

1. The affidavit-of-service and the notice of upgradation filed today be kept on record.
2. Although an adjournment is sought on behalf of the respondents, since the matter is appearing under the heading 'Upgraded Matters', such prayer is refused.
3. The petitioner no. 1, which is a sole proprietorship firm owned by the petitioner no. 2, participated in the work of repair and renovation of SIG Building including roof treatment work etc. in Garia CIF Campus, 307, Garia Main Road, Kolkata- 84 during the year 2018-2019. The work order has been annexed at page-13 of the writ petition.
4. Thereafter, the Executive Engineer, PWD, Kolkata South Division, who is respondent no.7 herein, had communicated to the Commissioner, Home & Hill Affairs Department requisitioning fund for the said work. It was noted there that administrative approval to the said work had been accorded for an amount of Rs. 22,49,062/-.

5. The work, till then, was going on.
6. Thereafter, as annexed at page-15 of the writ petition, a Completion Certificate was issued to the petitioner no. 1 after completion of the work. The said Certificate shows that the work was completed by the petitioner no.1 on November 25, 2020. The “tendered amount” was Rs. 16,97,330/- mentioned therein was.
7. The subsequent annexure to the writ petition, that is, Annexure P/4 at pages-16/16A, shows that the Inspector General of Police (O), West Bengal for D.G. & I.G. of Police, West Bengal wrote to the Senior Special Secretary to the Government of West Bengal, respondent no. 4 herein, for release of the fund for payment to the petitioner, including 3% for contingency fund.
8. The amount due to the petitioner for the work done was shown in the said communication dated February 22, 2023 also to be Rs. 16,97,330/-.
9. Thereafter, the petitioners wrote a representation to the Executive Engineer, PWD for release of the fund.
10. Upon such representation dated February 22, 2023, the Executive Engineer further wrote to the Senior Special Secretary, West Bengal, Home & Hill Affairs Department on July 10, 2023 for release of the fund in favour of the Chief Engineer. However, it is submitted that till date such fund has not been released, for which the petitioner’s payment is withheld.

- 11.** Learned counsel for the petitioners submits that due to the long delay in payment, the respondents should also pay interest on the amount due to the petitioner.
- 12.** It is evident from the annexures to the writ petition, which speak for themselves, that it is an admitted position that an administrative approval had been given to the effect that the petitioner no. 1 had completed the work, which is also clear from the Completion Certificate, for the work worth Rs. 16,97,330/- on November 25, 2020. The prolonged delay in non-payment of such amount till date is entirely unexplained from the end of the respondent no. 4.
- 13.** However, there being no controversy ever raised regarding the claims of the petitioner; rather, the Executive Engineer of the PDW himself as well as the IG having written to the concerned authorities for disbursal of the fund for such payment, it is beyond doubt that the petitioner no. 1 is entitled to an amount of Rs. 16,97,330/- for work done by him for the respondents. The petitioner is also entitled to interest for non-payment of the sum on and from December 2020, since the work was completed long back, on November 25, 2020.
- 14.** Accordingly, WPA No. 9144 of 2024 is allowed, thereby directing the respondent no. 4 to disburse the amount of Rs. 16,97,330/- along with interest at the rate of eight per cent per annum on the said amount till the date of disbursal of such amount, to the respondent

no. 7, that is, the Executive Engineer, Public Works Department, Kolkata South Division, positively within June 30, 2024.

- 15.** Within a week from such disbursal, the respondent no. 7 shall pay the amount to the petitioner no. 1.
- 16.** In the event the disbursal is not made within the timeline as stipulated above, the respondent no. 4 and/or the respondent no. 7, whichever of them is responsible for the delay, shall pay further interest calculated on the entire amount from the next date after the date on which it is due, that is, one week from June 30, 2024 (which comes to July 07, 2024), at the rate of six per cent on the total due including principal plus interest as on that date, till the date of payment to the petitioner.
- 17.** There will be no order as to costs.
- 18.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)