

14th May,
2024
(AK)
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W.P.A 13452 of 2024

T.D.K. Enterprise and another
Vs.
The State of West Bengal and others

Mr. Pratik Dhar
Mr. Samir Halder
Mr. Aritra Roy Chowdhury
...for the petitioners.

1. Despite service, none appears for the respondents.
2. Affidavit-of-service filed in court today be kept on record.
3. Learned senior counsel for the petitioners contends that the petitioners worked as contractors and supplied goods during the COVID period to the respondent authorities.
4. However, despite bills having been duly raised by the petitioners and the dues having been acknowledged, the payments have not yet been made to the petitioners.
5. Learned senior counsel places particular reliance on a communication dated April 8, 2024 by the Executive Engineer (PWD) Nadia Electrical Division, Krishnanagar, Nadia to the petitioners where it has been stated that the author of the said communication had demanded the requisite funds from CMOH, Nadia first and then moved to the

highest authority of Sasthya Bhawan through the Chief Engineer (Works) Electrical of the PWD.

6. Sasthya Bhawan demanded some approval of requisition from the appropriate authority and thus the matter was forwarded to the CMOH, Nadia for further procedure.
7. Thereafter it has been categorically stated that as soon as the Executive Engineer receives the fund it will be disbursed to the petitioners but the Executive Engineer is not in a position to assure the petitioners as to the date of payment.
8. A plain reading of the said communication clearly shows that the petitioners' dues are admitted in an unqualified manner by the PWD, which was the employer of the petitioners insofar as the present works are concerned.
9. Moreover, in view of non-appearance of the respondents at the time of call, the allegations made in the writ petition are deemed to be admitted by application of the doctrine of non-traverse.
10. The above position of law is also supported by several judgments of this court and the Supreme Court.
11. In such context, the judgments cited by learned senior counsel for the petitioners are apposite.
12. The cited judgments are as follows:

- i) *(2019) 16 SCC 794 (Sutya Constructions vs. State of Uttar Pradesh and others)*
- ii) *(2004) 3 SCC 553 (ABL International Ltd. And another vs. Export Credit Guarantee Corporation of India Ltd. and others)*
- iii) *An unreported judgment of a coordinate Bench of this Court dated September 15, 2023 in WPA 9051 of 2021 (Civtect (India) Pvt. Ltd and another vs. State of West Bengal and others).*
- iv) *An unreported judgment of a coordinate Bench of this Court dated April 5, 2023 in WPA 25371 of 2022 (Godrej & Boycc Mfg. Co. Ltd. vs. State of West Bengal and others).*
- v) *An unreported judgment of this Court dated April 10, 2024 in WPA 28273 of 2023 (Mitra Electronics vs. State of West Bengal and others).*

13. In view of such circumstances, WPA 13452 of 2024 is allowed, thereby directing respondent nos.1, 2 and 4 to disburse the requisite funds for payment of the petitioners' dues as per the claim made in the present writ petition as expeditiously as possible, positively within June 30, 2024.
14. Such disbursal shall be made to the respondent no.8 for the purpose of payment to the petitioners.
15. Immediately after such disbursal is made, the respondent no.8 shall pay the due amounts of the

petitioners to the petitioners, positively within a fortnight thereafter, latest within July 15, 2024.

16. All concerned shall act on the written communication of the learned Advocate-on-record for the petitioners coupled with server copy of this order, without insisting upon prior production of a certified copy, for the purpose of compliance.
17. There will be no order as to costs.
18. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)