

03.10.2024
Court No. 2
Sl. No.33
AGM

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 2165 of 2024

**M/s. Nanu Shome and Co. & Anr.
-versus
Siliguri Jalpaiguri Development Authority (SJDA) &
Ors.**

**Mr. Rajesh Kumar Sharma.
Mr. Bickey Sharma.
Mr. Mithilesh Prasad.
...For petitioners.**

**Mr. Arjun Roy Mukherjee. (VC)
Mr. Deborshi Dhar.
... For the Siliguri
Jalpaiguri Development
Authority (SJDA)**

1. The dues of the petitioner on completion of the work in accordance with the work order are yet to be disbursed.
2. The communication of the Chief Executive Officer of the Siliguri Jalpaiguri Development Authority (SJDA) has been placed before this Court in support of the submission that despite request to release fund, the same has not been done by the Department of Technical Education and Training.
3. Due to non-availability of the fund, payment cannot be made to the petitioner.

4. It appears from the documents annexed to the writ petition that the work order was issued by SJDA. It is the duty and the responsibility of SJDA to secure money from the Department and pay all the dues of the contractor who performed the work in terms of the work order.

5. A completion certificate has been issued by the engineers of SJDA certifying completion of the work within the scheduled time up to the entire satisfaction of the authority. After issuance of such a certificate the act on the part of SJDA, not to disburse the claim of the petitioner, on the ground that fund is not being made available by the Department, cannot be accepted.

6. SJDA is directed to make payment of the due amount to the petitioner positively within a period of ninety days from the date of communication of this order. In the event the payment is not made within the due date, then serious consequences would follow.

7. It will be open for SJDA to seek necessary financial help from the State Government in this regard. If request is made by SJDA, the State shall arrange for funds so that the legal dues of the contractor can be cleared.

8. As the amount was due long back and the authority has delayed in making payment,

accordingly, the petitioner would be entitled to receive the amount along with interest.

9. The due amount shall be disbursed to the petitioner along with simple interest @ 7% per annum to be calculated on and from the due date of the bill to the date of actual payment.

10. If the dues are not cleared within the time limit stipulated hereinabove, the petitioner would be entitled to receive additional interest @ 3% per annum, i.e., $7\% + 3\% = 10\%$ per annum calculated on and from the due date till the date of actual payment.

11. Affidavit-of-service filed in Court today be kept with the records.

12. The communications made by the Chief Executive Officer, SJDA to the different departments of the State handed over by the learned advocate representing SJDA be retained with the records.

13. The writ petition stands disposed of.

14. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)