S.No. 21

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case No. :- WP(C) No. 1257/2024
CM No. 3174/2024

Social Welfare of India .....Petitioner(s)/Appellant(s)
Registered Office 145, Lane no. 2,
Vidhata Nagar, Bathindi
Jammu through its Director
Z.A. Bhatti Age 53 years
S/o Sh. M.H. Bhatti
R/o 143, Vidhata Nagar, Bathindi
Jammu.

Through: Mr. Manik Bhardwaj, Advocate.

Vs

1. U.T. of Ladakh ..... Respondent(s)
   Through its Commissioner/Secretary
   Housing & Urban Development Department
   Civil Sectt. Leh.
2. Director Urban Local Bodies
   Leh.
3. Municipal Committee Leh
   Through its Executive Officer.
4. Account Officer
   Municipal Committee Leh.
5. Accounts Officer
   Urban Local Bodies, Leh.

Through: Mr. Vishal Sharma, DSGI

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
03.06.2024

01. Through the medium of instant petition, the petitioner seeks following relief:-

> **"Writ of Mandamus command and direct the respondents to release an amount of Rs. 12,49,923/- as the bill payment for the work done of the community toilet at complex Skampri, Leh in favour of the petitioner, by issuance of writ of mandamus.**

Writ of Mandamus command and direct the respondents to release an amount of Rs. 6,58,554/- as the balanced payment for the work done on the community toilet Complex at Eidgah, Leh by issuance of writ of mandamus.

Writ of mandamus command and direct the respondents to deposit an amount of Rs. 4,39,470/- in PAN No. AA0AS9889E of the petitioner with the income Tax department which was deducted at a rate of 2.24% from the bill of agency released during the financial year 2020-21-2021-22, by issuance of writ of mandamus."

02. The case of the petitioner is that the Executive Officer Municipal Committee Leh vide its order dated 13.02.2019 allotted the work of construction of 21 community and public toilets at 21 different places in Leh and respondent no. 3 vide letter dated 09.11.2019 intimated the Deputy Commissioner, Leh that the petitioner has been awarded the said work.

03. It is further submitted that the Deputy Commissioner Leh vide its letter dated 11.10.2019 requested the Principal Secretary Housing and Urban Development Department to release funds to the tune of Rs. 285.39 lacs for releasing the payment for the construction of CT/PT wherein it has also been mentioned that petitioner has completed six number of toilets and the rest are in the completion stage. The respondent no. 3 have accorded sanction of nine number of toilets constructed by the petitioner vide its order dated 15.03.2022 for an amount of Rs. 11,93,032/- for each toilet and Rs. 11,14,248/- for construction of toilet at Eidgah Leh and despite technical sanction respondent nos. 3 and 4 released an amount of Rs. 1.00 crore only.

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04. It is submitted that respondent nos. 3 and 4 have released Rs. 4,55,799/- only with respect to toilet complex at Eidgah Leh and an amount of Rs. 6,58,554/- is outstanding which is admitted payment payable to the petitioner.

05. It is further submitted that petitioner has also constructed a toilet complex at Skampari Ward No. 12 Leh and for the verification of the said toilet a committee was constituted by respondent no. 3, visited the spot, obtained geo tagging and a bill to the tune of Rs. 12,49,923/- was sanctioned. The respondent no. 3 vide letter dated 13.11.2023 intimated the Accounts Officer Urban Local Bodies UT of Ladakh that the toilet complex at Skampari ward no. 12 and Eidgah ward no. 2 have been inspected and as per the report of the committee, petitioner has completed the toilet complex satisfactorily.

06. It is further submitted that petitioner was allotted the work for construction of 20 CT/PT at different locations in Leh which work the petitioner has completed and submitted his first bill against which an amount of Rs. 86,43,714/- has been released with respect to the second bill an amount of Rs. 24,35,436/- has been released and with respect to the third bill an amount of Rs. 85,03,831/- has been released. Thus, the petitioner has received total amount of Rs. 1,95,82,981/- from respondent no. 3 which payment has been released after deducting TDS @ 2.24% and this TDS amount though deducted by respondent no. 3, has not been deposited in Income Tax Department. Thus, the petitioner is also entitled to refund of an amount of Rs. 4,39,470/- deducted as TDS from his bills which the respondents has not deposited with the income tax department.

07. The petitioner has made various representationS for release of payments but the respondents are not releasing the admitted payment to the petitioner.

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08. Heard learned counsel for the petitioner at length and perused the record.

09. Issue notice.

10. Mr. Vishal Sharma, learned DSGI waives notice on behalf of respondents.

11. Learned counsel for the petitioner submits that the petitioner shall be satisfied, if his petition at this motion stage, is disposed of, directing respondents to consider the plea raised by the petitioner. Learned counsel for the respondents submits that respondents have no objection, if the instant writ petition is directed to be treated as representation and same is accorded consideration strictly in accordance with rules and as per law.

12. With the consent of learned counsel for the parties and keeping in view the facts and circumstances of the case, the instant writ petition is disposed of, at the threshold, with a direction to the respondents to consider the claim of the petitioner by treating this writ petition as representation and take a decision thereon strictly under rules and as per law and pass a consideration order within a period of six weeks from the date a certified copy of this order alongwith complete set of writ petition are made available to the respondents. It is also made clear that in case, the petitioner intend to submit any other material before respondents, the same can be submitted within the aforesaid period alongwith instant petition. The consideration order, which is likely to be passed, be conveyed to the petitioner through registered post.

13. Needless to say that in case, the order of consideration goes against the petitioner, he will be at liberty to challenge the same by way of appropriate proceedings, if so advised.

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14. ***Disposed of***, as above alongwith connected application.

(Wasim Sadiq Nargal)
Judge

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