

IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH

104

CWP-1901-2024  
Date of Decision: 01.05.2024

M/S LORD SHIVA CONSTRUCTION CO. PVT. LTD.

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

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

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Present: Mr. Aman Raj Bawa, Advocate  
for the petitioner.

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VINOD S. BHARDWAJ, J. (ORAL)

Learned counsel for the petitioner contends that the petitioner had undertaken the work of "Construction of new road from Jawara to Kurana in Sonapat District" provided under Hon'ble CM Announcement Code No.17761 dated 10.12.2016 having a cost of Rs.168.30 lacs. The petitioner deposited the performance bank guarantee as per the letter of allotment of the work. He contends that there were certain disputes as regards the payments to be made, due to which the matter was firstly referred to Alternative Dispute Redressal Mechanism and eventually an appeal was preferred before the Standing Empowered Committee. Vide its order dated 30.04.2022, the said Committee directed as under:

***Overall conclusion for claims/counter claims***

(v) *Considering the claims / counter claims it is decided that the final settlement of amount payable / recoverable shall be made considering the provisions of contract data item 40 and clause 60.1 of condition of contract which provides that "the percentage to apply to the work not completed representing the employer additional cost for completing the*

*work shall be 20%". Therefore, the total recoverable amount has to be worked out by the respondent as per specific provisions of contract agreement clause 60.1. The total recoverable amount including amount of liquidated damages imposed, performance of bank guarantee encashed and retention money withhold shall be restricted to 20% of the value of the work not completed and accordingly the amount payable / recoverable shall be worked out.*

*The respondent shall prepare the final bill afresh and intimate the same to the claimant and any amount due shall be paid to the agency or if any recoverable by means of these calculation shall be payable to the respondent by the claimant."*

He submits that the petitioner now confines his relief to the disbursement of the amount in terms of the decision of the Standing Empowered Committee and that the respondent-Department itself, vide endorsement No.743 dated 21.07.2022, had calculated the amount payable to the petitioner as Rs.3,49,322/- as on 30.04.2022. The relevant extract of the said memo/endorsement dated 21.07.2022 reads thus:

*"To*

*The Superintending Engineer,  
Sonepat Circle, PWD B&R Br.  
Sonepat.*

**No.**

**Dated:-**

*Subject: Payment as per decision dated 30.04.2022 of Empowered Standing Committee in the matter of dispute for the work of Construction of new road from Jawara to Kurana in Sonepat District (Hon'ble CM Announcement Code No.17761) Agreement No.12 of 2017-18)*

*Ref Your good office endst. no.4228 dated 24.06 2022 & no.4249 dated 25.06.2022.*

*As per decision dated 30.04.2022 of Empowered Standing Committee (stands submitted in your good office), the payment of claimant worth to Rs.349322/-due on 30.04 2002 (As per a fresh final bill).*

*It is further requested that after examination the case / a fresh bill necessary decision / direction my kindly be conveyed to office so that further action could be taken accordingly*

*DA/ As above*

*Executive Engineer,  
Provincial Division No.1,  
PWD B&R Br. Sonipat."*

It is contended that notwithstanding that the respondents have recalculated the liability payable to the petitioner, yet the said amount has been wrongly withheld. He further submits that he would be satisfied at this juncture, in case the respondents are directed to release the abovesaid payment as calculated by them.

Notice of motion.

Mr. Vivek Saini, Addl. A.G., Haryana accepts notice on behalf of the respondents and has no objection to the prayer made by the learned counsel for the petitioner.

In view of the above, with the consent of the parties and without commenting anything on the merits of the present petition, the same is disposed of with a direction to respondent No.5- Executive Engineer, Provincial Division No.1, PWD (B&R), Sonapat, Haryana to release the abovesaid amount in favour of the petitioner within a period of three months of the receipt of certified copy of this order, failing which, the petitioner shall be entitled to

interest @ 6% per annum from the date of institution of the present writ petition till actual disbursement.

Disposed of accordingly.

MAY 01, 2024  
rajender

(VINOD S. BHARDWAJ)  
JUDGE

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