

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 9941 of 2024

Date of decision: 01.05.2024

M/s Krishna Constructions Co.

.... Petitioner

Vs.

State of Haryana and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Ivneet Singh Pabla, Advocate
for the petitioner.
Mr. Ankur Mittal, Addl. A.G. Haryana with
Mr. Karan Jindal, Asstt. A.G. Haryana and
Ms. Kulshaldeep Kaur, Advocate

ARUN PALLI, J (Oral)

The petitioner has prayed for the following substantive relief:

“Civil Writ Petition Under Article 226/227 of the Constitution of India praying for the issuance of an appropriate writ, order or direction especially in the nature of Mandamus directing the respondents for not insist/compel the petitioner to re-start/execute the work till date respondent no.4 obtained approval from the competent authority qua the enhancement in contract amount and to obtain the approval, as pursuant to the letter dated 18.11.2022 (Annexure P-6) issued by the respondent no.4, the scope of work of bridge enhanced to 48 piles of (vertical load of 300 ton at depth with 35 meters) instead of approved design/drawing with 48 piles of (vertical load of 350 Ton with depth of 24 meters) as earlier design/drawing failed vide test report dated 06.09.2022 (Ananexue P-2), the amount of the work executed as per revised specification will be approx. 25% above the contract price and such enhancement required mandatory prior approval as per

the government instruction dated 06.12.2022 (Annexure P-9), the respondents inspite of repeated request adamant and not obtained the approval for enhancement/escalation in work, rather compelling the petitioner to start the work without prior approval and already initiated termination of contract for no fault of petitioner.

AND

Further directed the respondents to provide the revised vetted working designs/drawings of piles of 35 meters depth, after approval from competent authority, as the respondents compelling the petitioner to start the work, without providing, revised vetted working designs/drawings of piles of 35 meters.”

Learned counsel for the petitioner submits that the petitioner had submitted a bid of Rs.8,41,85,805.83/-. Whereupon, vide acceptance letter dated 04.04.2022 (P-1), a contract for construction of 3 spans, 22.00 M each, high level bridge over drain No.8, crossing HSVP road (TDI City) to HSIIDC road of Kundali, Industrial Area, in Sonipat, was awarded to the petitioner. It is submitted that duration of the work period was 18 months (from 10.5.2022 to 9.11.2023). He submits that a pile test (with diameter 1200 MM and depth of 24 meters, as per specification and design), of the work carried out by the petitioner, was conducted, in which, it purportedly failed. The pile test report dated 06.09.2022 (P-2) is appended with the petition. Whereupon, it was asked to conduct another pile test, but, with new specifications i.e. safe vertical load of 300 ton with 1200 MM diameter and 35 meter depth. It is submitted that the limited grievance that the petitioner has is: with the increased depth, the cost of the project would increase by 25%, for which the respondents are required to take administrative approval, per Government instructions dated 06.12.2022 (P-9), else it could lead to multiple complications. And, even if the petitioner executes the work, the authorities would not be able to release/clear the bills. Further, the approved re-design of the bridge was not given and there appears to be a flaw in the

new design, but, yet in reference to the letter dated 22.03.2024 (P-15), learned counsel for the petitioner asserts that respondent No.4 has required the petitioner to re-start the work with new specifications within 7 days, failing which, action in terms of Clause 59.1 and 59.2 (a) of the contract, would be initiated. And, the matter would be sent to the competent authority for termination of the contract. All that is being urged before us, at this stage, is that the authorities may examine the concerns/grievances of the petitioner as sought to be raised in the petition before passing any formal orders.

Served with the advance copy of the petition, Mr. Ankur Mittal, Additional Advocate General, Haryana, is present in Court. At the outset, he seriously disputes the claim of the petitioner. However, he, on instructions, submits that let the petition be disposed of to enable the respondent authorities to deal with the concerns/grievances of the petitioner that are sought to be raised in the petition. He submits that the petitioner may appear before the Engineer-in-Chief, PWD (B&R) Branch, Haryana, Nirman Sadan, Sector 33, Chandigarh (respondent No.2), on 06.05.2024 at 11.30 AM. Whereupon, the competent authority shall consider the claim of the petitioner and pass appropriate orders in accordance with law.

Learned counsel for the petitioner is agreeable to the course suggested by the learned State counsel and submits that the matter being time sensitive, the competent authority be directed to consider and finally decide the matter within a specified time.

To this, learned State counsel submits that the competent authority would make every possible endeavour to decide the matter, as expeditiously as possible, preferably within four weeks from today.

In the wake of the position sketched out above, and in terms of the statement made by learned counsel for the parties, this petition is accordingly disposed of.

This Court is sanguine that the authority shall consider/examine the matter in the right earnest, and pass appropriate orders, within the time indicated by learned State counsel, assigning reasons in support thereof.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of either party, for, as

indicated earlier, the competent authority shall examine the grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

01.05.2024
deepak

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