



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-12934-2022

Date of decision: 12.09.2024

M/S G.S. BUILDERS

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondents

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

Present:- Mr. Anurag Chopra, Advocate
for the petitioner.

None for respondent No.1.

VINOD S. BHARDWAJ, J. (Oral)

The petitioner has approached this Court for seeking directions to respondents No.2 and 3 to release the Earnest money and performance guarantee deposited in lieu of being appointed as Northern Railway Contractor for miscellaneous work related to improvement of circulating area and construction of Foot over bridge (FOB) at Jalandhar City Railway Station under the smart city mission which is alleged to have been illegally and arbitrary forfeited without any cogent reasons.

2. Learned Counsel contends that the prime grouse being pressed at this stage is emanating from the fact that despite submission of as many as 15 representations by the petitioner and a binding

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mandate of the respondents to take a decision on such representation within a period of 120 days of receipt of any such representation, no decision has been taken by the respondents. He draws attention of this Court to the order dated 02.06.2022 when an interim was granted and notice was issued to the respondents, the operative part of the said reads thus:-

“Petitioner has approached this Court for the issuance of an appropriate writ, order or direction in the nature of mandamus, directing respondents No.2 and 3 to release the earnest money and performance guarantee deposited by the petitioner being lawfully appointed as Northern Railway Contractor for miscellaneous work related to improvement of circulating area and construction of foot over bridge at Jalandhar City Railway Station under smart city mission.

The earnest money has already been forfeited without giving any opportunity of hearing to the petitioner. Petitioner seeks adjudication of its number of representations dated 07.01.2021, 29.01.2021, 05.03.2021, 01.05.2021, 05.05.2021, 19.05.2021, 10.06.2021, 15.09.2021, 17.09.2021, 22.04.2022 and 04.05.2022. The representations filed by the petitioner have to be adjudicated by respondent No.2 mandatorily in terms of Clause 63 of the Indian Railways Standard General Conditions of Contract, 2020.

Notice of motion for 03.08.2022.

In the meanwhile, respondents would be at liberty to consider the pending representations of the petitioners in accordance with law.



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Deduction of amount, if any, during pendency of the present writ petition would be subject to decision of the present writ petition.

Learned Counsel for the petitioner contends that notwithstanding the said interim order being in place since 02.06.2022 and the respondents having been granted liberty to consider the pending representations of the petitioner and to take a decision in accordance with law, however, needful has not been done. He contends that he would be satisfied at this juncture in case the respondents are directed to take a decision on the said representations after granting an opportunity of hearing to the petitioner.

Since there is no representation on behalf of the respondent, in view of the order which this Court intends to pass, the presence of the Counsel for the respondent would not be necessary at this juncture. The present writ petition is accordingly disposed of at this stage with a direction to the respondent No.2-Senior Divisional Engineer, DRM Office, Ferozepur to take a decision on the pending representation submitted by the petitioner within a period of four months of receipt of certified copy of this order after granting an opportunity of hearing to the Counsel for the petitioner. The interim protection granted to the petitioner vide order 02.06.2022 shall inure till the decision of the said representations by the competent authority. The petitioner shall appear before the respondent No.2 on **30.09.2024**.



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Needless to mention that in the event of any payment found due by the respondents, on a considered decision taken on the representation submitted by the petitioner, the undisputed payment found due shall be released within a period of two months thereafter.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 12, 2024

Vishal sharma

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