

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

CWP-799-2016
Date of decision: 07.02.2024

REGENT CO-OPERATIVE LABOUR & CONSTRUCTION SOCEITY (L/S)

.....Petitioner

VERSUS

THE CHIEF ENGINEER CANALS, PUNJAB SANCHAI BHAWAN &
OTHERS

.....Respondents

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

Present: - None for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. The instant writ petition had been disposed of vide order dated 18.05.2016 in terms of the order passed in *CWP-19366 of 2015* titled as *“Munish Kumar Bansal versus State of Punjab and others”* which such petition was disposed of with a direction to the respondents to release the payment of the petitioners, in all the cases, within a period of two months, if not already released. The specific merits of the claim were however not touched upon.
2. Consequent to the said order, a COCP-2111-2016 was filed by the petitioner due to non-compliance. During the pendency of the above contempt petition, a CM-501-CWP-2017 was filed by the respondent-

department before this Court for seeking recalling of the order, wherein it was averred that the work of rehabilitation of Jamrai Distributary from R.D. 0 to 5000 and rehabilitation of the Jamarai Distributary from R.D. 12760 - 19000 was allotted to the petitioner-Society. A complaint was received about the quality of the work executed on the said distributary and on the directions of the Secretary Irrigation, the Chief Engineer, Punjab Water Resources visited the site. A report was thereafter submitted to the Secretary on 26.05.2015 whereupon a Committee of three Chief Engineers was constituted by the Government vide order dated 04.06.2015 to investigate the discrepancies and to furnish a detailed report after investigating the points mentioned therein. The Committee of 03 Executive Engineers, constituted by Chief Engineer, Canals, submitted its report on 17.06.2015 as per which various discrepancies in the work executed by the petitioner-Society were noticed. It was thus reported that a sub standard work had been executed by the petitioner and he was not entitled to the payment as claimed by him in the present petition. An order dated 24.11.2017 was also conveyed to the petitioner in this regard. The Departmental Technical Committee recommended that the payment be not made till the defects are rectified by the Petitioner-Society and recommended blacklisting of the petitioner-society because of the sub standard works.

3. Counsel for respondent further contends that the above aspects were also apprised by the department to the contempt Bench whereupon the contempt Bench dismissed the contempt petition after finding that there was no willful disobedience, vide its order dated 14.03.2023.

4. It is also evident from perusal of the order sheets that a copy of the written statement had been handed over to the counsel for the petitioner

on 12.07.2023 when the application for recalling was allowed and he had been seeking time to examine the same and to advance submissions. The matter was thereafter adjourned to 04.10.2023 on which date no one entered appearance on behalf of the petitioner. The case was thereafter adjourned for today. No one has chosen to appear on behalf of the petitioner today as well.

5. No counter or rejoinder has been filed by the petitioner despite the reply having been filed by the respondent-department in July, 2023. The factual aspects have thus remain uncontroverted.

6. Noticing that the Committee has already returned a finding of the work being sub standard, prima facie disputed questions of fact would arise in the present writ petition as regards entitlement of the petitioner to the amount as claimed by him. The said issues being disputed questions of fact, cannot be determined by this Court in exercise of powers of judicial review under Article 226/227 of the Constitution of India.

7. The present writ petition is accordingly dismissed at this stage with liberty to the petitioner to pursue his alternative remedy in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 07, 2024
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No