



CWP-32360-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-32360-2024Date of decision: 02.12.2024

M/s Ashoka Construction Company

....Petitioner

Versus

National Highways Authority 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.

ARUN PALLI, J. (Oral)

The petitioner (M/s Ashoka Construction Company) has
prayed for the following substantive relief:-

*“Civil Writ Petition under Articles 226/227 of
the Constitution of India praying for the issuance of an
appropriate writ, order or direction especially in the nature
of Certiorari for quashing of letter dated 5.11.2024
(Annexure P-10) issued by respondent No.2, for
encashment of Bank Guarantee, without deciding the
Appeal dated 13.03.2023 (Annexure P-9) preferred to
respondent No.1 against termination and also without
comply with the provision of clause 54.1 of the Contract
Agreement (Annexure P-2) (Page 83), wherein after
termination of contract, respondent required to issue
certificate for the value of work done/executed, as the
petitioner due to non availability of site only able to
execute 28.32% of the total work and submitted the bills
with the respondents.*

And



Further issuance of an appropriate writ, order or direction especially in the nature of Certiorari for quashing of letter dated 28.02.2023 (Annexure P-7) issued by respondent no.2, whereby tender granted to the petitioner has been terminated, as the respondents fail to provide property site/berms along with the section, enabling the petitioner to execute footpath work.

Further issuance of an appropriate writ, order or direction especially in the nature of Mandamus directing the respondent no.1 to decide an Appeal dated 13.03.2023 (Annexure P-9) within time bound manner and issue certificate of work executed as per provision of clause 54.1 of the contract Agreement.”

Learned counsel for the petitioner submits that prior to the institution of this petition, the petitioner, being aggrieved by an order dated 28.02.2023 (P-7), vide which the contract dated 03.06.2021, entered into between the parties, was terminated, preferred an appeal before the Regional Officer, National Highways Authority of India (respondent No.1), which is pending consideration. However, in the meanwhile, vide letter dated 05.11.2024 (P-10), issued by respondent No.2, the bank guarantee furnished by the petitioner is sought to be encashed.

Served with the advance copy of the petition, Mr. R.S. Madan, Advocate, along with Mr. Mahender Joshi, Advocate, for respondents No.1 and 2, is present in Court. At the outset, he vehemently disputes the claim of the petitioner and submits that the petition itself is not even maintainable. For it involves disputed question of facts. And, in any case, the petitioner could invoke clause 25 of the contract (*ibid*), which deals with Arbitration. Be that as it may, he, on instructions, fairly submits, for, as indicated above, the appeal preferred by the petitioner is, indeed, pending, let the petition be disposed of, at this stage, to enable the Appellate Authority to take cognizance thereof. And the appropriate orders, in accordance with law, shall be passed within two weeks from



today. Further, before any such orders are passed, the petitioner, through its authorized representative(s), shall be heard, for which, a formal communication shall be issued, well in advance.

That being so, learned counsel for the petitioner submits that nothing substantive survives in the petition and the same be disposed of, in terms of the statement made by learned counsel for respondent No.1 and 2.

The petition is accordingly disposed of, in terms of the statements made by learned counsel for the parties.

However, if the matter is not decided within the period indicated above, the petitioner shall be at liberty to move a necessary application in this petition itself for its restoration and appropriate orders.

Needless to assert that this order shall not constitute any expression of opinion on the merits of the case of either party, for, as indicated above, the competent authority shall examine the concerns/grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

02.12.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No