

Court No. 2
06.9.2024
(Item No. 36)
(AB)

IN THE HIGH COURT AT CALCUTTA
Circuit Bench At Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 1844 of 2024

Shamser Ali Sarkar @ Samserali Sarkar @ Samsher
ali Sarkar
VS
The State of West Bengal & Ors.

Mr. Debarshi Dhar for the petitioner
Mr. Hirak Barman
Mr. Kumar Shantanu For the State

The petitioner pursuant to a tender floated by the State authority has completed the subject construction work. The work completion certificate is available at **annexure P-8** at **page 45** to the writ petition. Total amount for which the work was done was little over **Rs.55 Lakhs**. It is contented that, up to the 4th running account bill the amount has been paid to the petitioner and the petitioner has already received a total sum of **Rs.46,46,667/-** as part payment. The balance amount for about **Rs.9,13,542/-** which is payable to the petitioner has not been paid. Thus, this writ petition.

Mr. Hirak Barman, learned State counsel appears for respondents. The State counsel contends there was some delay in execution of the work.

The petitioner has submitted its representation dated **June 11, 2024, annexure P-9** at **page 46** to the writ petition claiming the said balance unpaid amount. The representation has not yet been disposed of.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that, the completion of work has been admitted by the respondents the moment the work completion certificate has been issued. There was no objection mentioned in the said work completion certificate with regard to the completion of or execution of the work. The final bill has already been raised and accepted by the respondents. Part payment has been made in acknowledgement of the total claim.

In view of the above, to sub-serve justice, the respondent No. 4 upon serving a prior hearing notice of at least seven days to the petitioner and after granting him an opportunity of hearing shall decide the said representation dated **June 11, 2024** as referred to above by passing a reasoned order.

The entire exercise shall be carried out and completed by the respondent No. 4 positively within a period of **six weeks** from the date of communication of this order. The reasoned order then shall be communicated to the petitioner positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

If the reasoned order goes in favour of the petitioner then the respondents shall also calculate interest @ **4% per annum** on the outstanding amount since the date of the issuance of the completion

certificate i.e. **March 20, 2023** till the date of actual tendering of the money to the petitioner.

It is further directed that, such payment shall have to be made to the petitioner by crediting the bank account of the petitioner as per the particulars of the bank account, to be furnished by the petitioner positively within a further period of **four weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the writ petitioner and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever records and documents he wishes to rely upon before the respondent No. 4.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition **W.P.A. 1844 of 2024** stands **disposed of**, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Aniruddha Roy, J.)