
(2013) 11 AHC CK 0144
In the Allahabad High Court
Case No : C.M.W.P. No. 17952 of 2012

Adarsh Bharti Shishu Mandir (Shiksha Samiti)

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 13-11-2013

Acts Referred:

Citation : (2013) 101 ALR 756 : (2014) 1 AWC 1007

Hon'ble Judges : Uma Nath Singh, J; Ran Vijai Singh, J

Bench : Division Bench

Judgement

Uma Nath Singh and Ran Vijai Singh, JJ.—We have heard learned Counsel for parties and perused the pleadings of writ petition and the contents of other documents available on record. This writ petition has been filed praying for issuance of a writ, order or direction in the nature of mandamus apart from seeking usual relief (s) in the nature of any other writ, order or direction which this Court would deem fit in the circumstances of the case.

2. Vide paragraph 8 of the writ petition, there is a clear assertion that for the work done by the petitioner the bills to the tune of Rs. 98,000/- were approved by the District Programme Officer on 30.3.2012. In reply thereto, the averments made in paragraph 9 of the counter-affidavit would read as:

That in reply to the contents of paragraph No. 8 of the writ petition, it is stated that the alleged bill of Rs. 98,000/- in favour of the petitioner has been scrutinized, due to lack of information regarding postponing of the aforesaid Training work by aforesaid letter, under the Kishori Shakti Yojana.

Thus, there is no denial of the assertion in paragraph No. 8 of the petition regarding the acceptance/approval of bills of Rs. 98,000/-. However, in the same breath, in paragraph 14 of the counter-affidavit, the deponent has stated that the entire work done by the petitioner is under doubt.

(Emphasis supplied)

3. Learned Counsel for the petitioner, in this background, submitted that the amount of bills is admitted and vide paragraph 14 of the counter-affidavit, it seems that due to dearth of sufficient budget, the same could not be cleared.

4. Learned State Counsel does not dispute that the deponent Officer has taken a contradictory stand which is also contrary to the order passed by a coordinate Division Bench on 6.9.2012 on the admission made by learned State Counsel. The said order is also reproduced as:

For certain work carried out by the petitioner-Institution in the Office of the District Programme Officer, Mirzapur, the respondents have not made payment to the petitioner.

Learned Counsel for the petitioner states that a sum of Rs. 49,000/- is due for the training of first batch and Rs. 49,000/- for training the second batch as would be clear from Annexure-3 to the writ petition, whereby the District Programme Officer has acknowledged that the said amounts are to be paid to the petitioner. It is thus admitted by the respondents that a sum of Rs. 98,000/- is to be paid to the petitioner.

Time was granted to the learned Standing Counsel to obtain instructions. He has stated that on having received the instructions from the Office of respondent No. 5, it is admitted that sum of Rs. 98,000/- is due to be paid to the petitioner, but because of non-availability of funds, the same has not been paid.

Once the Government Agency gets the work done by a party, it is obliged to pay the amounts due and by not doing so, the respondents have put the petitioner in unnecessary hardship.

Considering the facts of the case, we direct that the respondents shall ensure that the payment of Rs. 98,000/- is made to the petitioner by the next date or to show cause by filing counter-affidavit.

List on 29.10.2012.

5. From the rival submissions, the issues that we need to consider are: (i) as to whether prayer for issuance of mandamus to make the payment of the bills said to be admitted by the respondents can be issued? and (ii) as to whether the contradictory stand taken by the deponent Officer namely Smt. Prem Lata Gupta, District Programme Officer, Mirzapur, is required to be noticed? The deponent Officer addressed a letter dated 20.6.2012 to Additional Director (Finance), Bal Vikas Sewa Evam Pushtahar, Uttar Pradesh, Lucknow. The contents of the letter though being in Hindi are relevant, and therefore, are given below:

6. In terms of the aforesaid letter, the State Counsel appearing before the coordinate Division Bench which passed the order dated 6.9.2012 made the statement as noticed in the order of coordinate Bench. The said officer being the deponent of counter-affidavit has also not denied the assertion made in paragraph 8 of the writ petition in her reply vide para. 9 thereof. However,

contrary to all the aforesaid, she has retracted from the stand and made the contradictory statement in paragraph 14 of the counter-affidavit that the entire training work done by the petitioner is under doubt.

7. In the premises discussed herein above, we find that the bills of the petitioner have been admitted by the District Programme Officer, therefore, it is entitled to be paid the amounts mentioned therein.

8. Thus, the petition is allowed and we issue a writ of mandamus to the respondents to make the payment, as prayed for, within a period of four weeks from the date of receiving a copy of this order. The writ petition is disposed of accordingly.