

(2014) 05 MP CK 0065
In the Madhya Pradesh High Court
Case No : W.P. No. 6989/2014

M/s. Analpal Singh A Class Constructor	APPELLANT
Vs	
The State of Madhya Pradesh	RESPONDENT

Date of Decision : 07-05-2014

Acts Referred:

Citation : (2014) 05 MP CK 0065

Hon'ble Judges : Rajendra Menon, J;A.K. Sharma, J

Bench : Division Bench

Advocate : D.K. Khare, learned Counsel, Advocate for the Appellant; Rahul Jain, learned Dy. Advocate General, Advocate for the Respondent

Final Decision : Allowed

Judgement

1. Challenging the order passed by the respondents directing for deducting the royalty on the material consumed in execution of the contract, this writ petition has been filed.
2. The petitioner was granted contracts by the Public Works Department for execution of the said work, certain material was consumed by the petitioner for execution of the work, for consumption of material, royalty has been deducted from the petitioner's bill, this writ petition has been filed challenging this act of recovering royalty from the petitioner's bill.
3. The question of insisting upon the payment of royalty and the question of deducting royalty from the bills on similar contract has already been considered and decided by this court in various judgments. The question of demanding royalty from a contractor with regard to material consumed in execution of the contract has been considered in the case of W.P. No. 1361/09 (M/s. Chandrama Construction Company Vs. M.P. Rajya Krishi Vipran Sangh & others), W.P. No. 2535/2003 (M/s. Ravi Construction Company Vs. State of M.P. and others) and W.P. No. 5266/2006 (M/s. K.P. Singh Bhadoria Vs. M.P. Rural Road Development Authority Bhopal). Recently also a Division Bench of this court in W.P. No.

16091/2010 (M/s. Vinod Kumar Jain Vs. M.P. Rural Road Development Authority, Bhopal and others) considered the said question and after taking note of the controversy, the following directions have been issued:

As controversy involved in this case is squarely covered by the order in M/s. Chandrama Construction Company(supra) and we do not find any reason to differ with the reasonings and directions issued by the learned Single Judge, we dispose of this petition with following directions:

(1) The petitioner shall either furnish the bills of purchase of minerals from authorized dealer or an affidavit disclosing the source from where petitioner purchased minerals, which were used in the construction work.

(2) The respondents authorities if are satisfied with the bills produced by the petitioner may process the bills, but in case of any doubt, respondents authorities may insist the petitioner to file an affidavit in support of its contention in respect of purchase of minerals from the open market by the bills.

(3) In case the petitioner is unable to produce the bills for the purchase of the minerals or the royalty receipt in this regard, respondents authorities shall insist the petitioner to file an affidavit pointing out specifically the manner in which minerals were purchased, disclosing particulars of the person from whom the minerals were purchased. On filing of the affidavit, the authorities shall be within their right to verify the aforesaid facts. They can also verify the facts from the record of the Mining Department of the concerned district.

(4) On completion of the aforesaid process, the respondents shall clear the bills of the petitioner submitted in connection with the execution of the works contract and the amount of royalty, if any recovered from the bills, shall be released in favour of the petitioner.

(5) In case, the authorities are not satisfied with the contention of petitioner or on verification, facts are not found correct then they shall pass a reasoned order in rejecting the contention of petitioner.

(6) If the petitioner falls to produce the bills/affidavit as indicated hereinabove, the petitioner may represent his case to the concerned authority showing his inability to produce the bills or affidavit and it shall be for the State Government or authority to consider the representation and pass a suitable order in that regard within two months from the date of receipt of the representation.

4. Keeping in view the directions already issued by a Division Bench of this court under similar circumstances, there is no reason for this court to take different view.

5. In view of the above, this petition is also allowed and disposed of in identical terms. The respondents are directed to take action for settling the claim of the petitioner in accordance to the directions already issued by the Division Bench of this court as indicated hereinabove within a period of 3 months.

6. With the aforesaid, the petition stands disposed of.

7. C.C. as per rules.