

(2024) 02 J&K CK 0004

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 699 Of 2024

Mushtaq Ahmad Malik

APPELLANT

Vs

Union Territory Of J&K & Ors

RESPONDENT

Date of Decision : 05-02-2024

Acts Referred:

Citation : (2024) 02 J&K CK 0004

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : M. A. Beigh, Jahangir Ahmad Dar

Final Decision : Disposed Of

Judgement

Rajnesh Oswal, J

1. With the consent of learned counsel for the parties, the present petition is taken up for final disposal.

2. The petitioner, a registered contractor, has filed the present petition for directing the respondents to release the outstanding amount of Rs.3.37 lacs and Rs.0.97 lacs due to him in lieu of execution of following allotted works:

S.No.

Name of Work

Authority/allotment agreement No.

Date of completion of work

Balance amount Rs.

1.

Laying of additional 100mm dia gravity main for village Hallan including laying of Shunt Line for Gujjar Basti Hallan under water supply scheme Nowgam

Shahabad (NRDWP)

PHBQ/5176-77 dated 12.03.2020

10.7.2020

3.37 Lacs

2.

Construction of Spring Protection Works at Head Site of WSS Hallan Nowgam Shahabad.

PHBQ/5178-79 dated 12.03.2020

05.7.2020

0.97 Lacs

3. It is stated that the petitioner undertook the above mentioned works and successfully completed execution of the same. The works have been checked by the officials of the respondent department and a completion certificate has also been issued in his favour but despite completion of the aforesaid works, the amount due to the petitioner has not been released in his favour which forced him to approach this Court through the medium of present writ petition.

4. The respondents have filed their response wherein they have admitted the allotment of works in favour of the petitioner pursuant to e-NIT No.32 of 2019-20. The respondents have also admitted that the petitioner completed the works and the Assistant Executive Engineer submitted the bills in favour of the petitioner after duly verifying and checking the said works. However, when uploading was made, the PIA had rejected the bills with the reason that the online AA cost and revised AA cost of said scheme was mismatching. It is stated that the originally work was sanctioned for an amount of Rs.192.27 lacs but the scheme was shifted from District Sector to NRDWP as per the approval conveyed by the Administrative Department and subsequently the revised DPR amounting to Rs.313.00 lacs was sanctioned under NRDWP vide order No.CE/PHE/TS/36 of 04-2015 dated 08.04.2015 but the online cost of the scheme is Rs.250.00 lacs due to which the work done claims uploaded by the respondents were rejected. Thereafter the matter was taken up vide communication dated 13.11.2021 and subsequently the Chief Engineer has taken up the matter with the Administrative Department vide his communication dated 25.05.2021. It is stated that as soon as the matter is resolved by the Administrative Department, the claims of the petitioner will be settled accordingly.

5. I have heard the counsel for the parties and perused the record on the file.

6. From the record it is evident that the petitioner has executed the works and has submitted the bills with the respondents. The only cause for not making the payment to the petitioner is due to discrepancy between online cost of the scheme and the revised DPR. The petitioner has done all what he was required to

do and it was for the respondents to settle the said discrepancy, as is evident from the reference made to communication dated 25.05.2021 in para (4) of the response filed by the respondents.

7. In view of the categoric admission of the respondents in respect of the payment due to the petitioner, the present writ petition is disposed of by directing the respondents to resolve the discrepancy in respect of the online cost of the scheme vis-à-vis revised DPR and make the payment due to the petitioner within a period of three months from the date a certified copy of this order is served upon the respondents and in the event needful is not done within the stipulated period, the petitioner shall be entitled to interest @6% per annum from the date of filing of the present writ petition till actual payment is made.