

(2005) 11 AHC CK 0097

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No.39130 of 2001

Raj Kumar Maheshwari

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 10-11-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 11 AHC CK 0097

Hon'ble Judges : R.K.Agrawal, J and Saroj Bala, J

Final Decision : Allowed

Judgement

1. It is not in dispute that the petitioner who is an authorized contractor registered with Public Works Department supplied Retro Reflective Sign Boards to the Public Works Department Respondent No.2 for a sum of Rs.94,093.50. The respondent No.2 handed over the treasury Cheque No.AB 00 19814 dated 31st March, 1999 to the petitioner on 22nd April, 1999. As the petitioner belongs to Meerut and has his Banker there, he deposited the same with his Bankers who sent the cheque for clearing. It may be mentioned here that the validity of the cheque was only for one month after the issue i.e. up to 30th April, 1999. The cheque was subsequently returned by the Bankers unpaid on the ground that its validity has expired. After the cheque was returned unpaid, the petitioner approached respondent Nos.2 and 3 for issuing a fresh cheque. It has come on record that the Treasury Officer after getting the cheque prepared on 31st March, 1999 had handed over the same to the respondent No.2 on 18th April, 1999. Even in the counter affidavit filed by the respondents, liability of payment has not been denied. For more than six years the petitioner has been deprived of lawful dues for his no fault. The use of Rs.94,093.50 has been blocked.

2. We have heard learned counsel for the petitioner and Sri B.N. Agarwal, learned standing counsel for the respondents.

3. The learned standing counsel submitted that, as there is no budget for making the payment the same cannot be made. This is not the sufficient ground for not

making the payment to the petitioner for such a long period of 6 ? years and the petitioner has been made to run from pillar to post.

4. In this view of the matter as the payment has not been denied and in fact the respondents had issued cheque for the said amount which on account of delayed handing over to the petitioner was returned unpaid by the treasury, the respondents are liable to make payment of the said amount forthwith along with interest @ 12% per annum from 1st May, 1999 till the date of actual payment.

5. The writ petition succeeds and is allowed. The respondent No.1 is directed to make payment of Rs.94,093.50 along with interest @ 12% per annum to be calculated from 1st May, 1999 till the date of actual payment within 30 days from the date a certified copy of this order is produced before the said respondent.

(Petition allowed)