
(2009) 12 AHC CK 0085
In the Allahabad High Court

Shiv Kumar Tyagi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 03-12-2009

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2010) 3 AWC 3070

Hon'ble Judges : R.K. Agrawal, J; Jayashree Tiwari, J

Bench : Division Bench

Final Decision : Allowed

Judgement

R.K. Agrawal and Jayashree Tiwari, JJ.—Heard learned Counsel for the petitioner and the learned standing counsel and have perused the averments made in the writ petition, its annexures and the counter-affidavit filed by the State.

2. It is not in dispute that the petitioner had executed certain works pursuant to the agreement No. 75.E.E./2006-07 awarded by the respondent No. 2. The work started on 5.1.2007 and was completed on 4.4.2007. The petitioner was given two cheques bearing No. 571732 dated 25.3.2007 amounting to Rs. 11,72,490 and No. 571977 dated 31.3.2007 amounting to Rs. 1,29,180 respectively. The validity of those cheques was upto 30.4.2007. Due to unavoidable circumstances, the petitioner could not present the two cheques for clearing in the bank within time, as a result of which, the payment could not be made. Thereafter, the petitioner is running from pillar to post for getting the payment for the work already executed by him.

3. A plea in the counter-affidavit has been taken that as the cheques were not presented within time, the budget allocation for the work undertaken by the petitioner had lapsed and, therefore, the State is not liable to make any payment. Reference is also invited to the averments made in paragraph 12 of the counter-affidavit filed by Ajay Kaushik, Assistant Engineer III, Lower Division, Eastern Yamuna Canal, Muzaffar Nagar, on behalf of respondent Nos. 1 to 3. The

stand taken in the counter-affidavit does not behove on the part of the State Government to deny the payment for the work executed by various persons only on the ground that as the cheque was presented beyond time and the fund had lapsed. If this plea is available to the State Government then, the action of the State Government would be arbitrary and violative of Article 14 of the Constitution of India.

4. We, therefore, direct the respondent No. 1 to make payment of the amount represented by the aforesaid two cheques within thirty days from the date on which a certified copy of this order alongwith the aforesaid cheques is presented before the authority concerned.

With the aforesaid directions, this writ petition succeeds and is allowed.