

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

105

CWP-9702-2025

Date of Decision : April 05, 2025

A.T. CONSTRUCTIONS

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Ankit Chahal, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana
for the respondent No.1.

Mr. Rajesh Gaur, Advocate
for the respondents No.2 to 6/Haryana Tourism Corporation.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, prayer is made for setting aside the speaking order dated 27.03.2025 (Annexure P-1), whereby, the respondent No.3 has rejected the petitioner's claim, as raised by it in its legal notice dated 01.06.2024 (Annexure P-2).

2. The petitioner had earlier, upon its fetching grievance from the indolent and lackadaisical approach of the respondent No.3 for not making final decision on its legal notice, approached this Court through instituting CWP-35077-2024. This writ petition was disposed of by this Court through drawing the hereinafter extracted order:-

"1. In deference to the directions issued by this Court on 26.03.2025, Dr. Sunil Kumar, IFS, Managing Director, Haryana Tourism Corporation Limited, has caused his personal appearance before this Court, and, in compliance of the order made by this Court on 17.02.2025, he has also placed on record the speaking order dated 27.03.2025, copy whereof is supplied to

the petitioner's counsel. The speaking order is taken on record as 'Mark A'. Moreover, he submits that, in case, the petitioner has any grievance left, then he can, in accordance with the DNIT, invoke the arbitration clause.

2. Since the speaking order (supra) has already been passed upon the petitioner's legal notice (Annexure P-5), hence no further direction is required to be passed. Consequently, the instant writ petition is closed. However, liberty is reserved to the petitioner to, in case, the speaking order (supra) causes any grievance to it, take the apposite legal recourse in accordance with the contractual agreement.

3. Disposed of accordingly.”

3. Since the claim of the petitioner, as enclosed in the legal notice (supra), has been declined by the respondent No.3 through drawing the impugned speaking order dated 27.03.2025, hence the petitioner has instituted the instant writ petition, thereby assailing the impugned speaking order and seeking issuance of directions upon the respondent(s) to release the outstanding payment of ₹ 42,40,624/- of the 10th running bill dated 26.07.2022 and outstanding payment of ₹ 22,89,440/- of the enhanced work executed at the allotted site after submissions of the 10th running bill on instructions and directions of the Executive Engineer-in-Charge of work and Chief Engineer, along with interest @ 18% for the delayed period. Moreover, the petitioner also seeks release of the remaining 5% security deposit out of the total security deposit, along with 18% interest from the date of expiry of defect liability period.

4. This Court has heard the submissions made by the learned counsel for the petitioner and also perused the record.

5. Perusal of the impugned speaking order reflects that, the claim of the petitioner has been declined, on the grounds that:- (i) there is no prior written order from the Engineer-in-Charge, with intimation to the Government,

for the alleged additional work; (ii) the PRASAD Scheme, funded by the Ministry of Tourism, Government of India, mandates prior approval from the Government of India for any escalation in the project's scope or cost, however, no such approval or direction is found on record regarding the alleged additional work; (iii) liability to pay interest arises only in cases of wilful default on the part of the department, however, in the present case, the delay was attributed to the petitioner on account of non-compliance with the contractual procedure; (iv) security deposit gets refunded only upon satisfactory completion of the work and expiry of the defect liability period. Although the defect liability period concluded in February, 2023, however, inspection revealed certain defects at the site, therefore, an internal departmental inquiry is currently underway in this regard.

6. The learned counsel for the petitioner, in his beseeching the relief penned down in the lead paragraph of this order, raised disputed questions of fact, which cannot be adjudicated by this Court in the instant proceedings and that too merely by exchange of affidavits, rather the same require them becoming adjudicated after evidence becomes adduced by the parties before the apposite authority/forum. Therefore, the instant writ petition is **dismissed**. However, liberty is reserved to the petitioner to challenge the impugned speaking order by taking recourse to the apposite statutory remedy before the appropriate authority/forum.

April 05, 2025
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No