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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7961/2024**

VASCON ENGINEERS LIMITED & ANR. Petitioners

Through: Mr. Himanshu Vij, Mr. Akhil Anand,
Mr. Jatin, Mr. Sreeram V.G. and Mr.
Vishal Mandal, Advocates.

versus

EMPLOYEES STATE INSURANCE CORPORATION & ANR.

..... Respondents

Through: Mr. Shlok Chandra, Standing Counsel
for ESIC with Mr. Sankalp Sharma,
Advocate for R-1/ESIC.

Mr. Gudipati G. Kashyap, Mr.
Ronvijay Gohain and Mr. Nishant
Pandit, Advocates for R-2/NBCC.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **28.05.2024**

CM APPL. 32776/2024 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 7961/2024 & CM APPL. 32775/2024

1. The Petitioners have approached this Court with the following prayers:

“a. This Hon'ble Court may be pleased to issue a writ of mandamus, or any other appropriate writ to hold and declare that the conduct of the Respondents wrongfully withholding money due to the Petitioner No.1 as unconstitutional and inter alia direct the Respondents to forthwith take all the necessary steps,



as may be required for release of payment of the Final Bill (as annexed at ANNEXURE P-6) and the Outstanding Bills raised by the Petitioner No. 1.

b. This Hon'ble Court may be pleased to issue a writ of mandamus, or any other appropriate writ to hold and declare that the conduct of the Respondents wrongfully withholding the bank guarantees of the Petitioner No.1 as unconstitutional and inter alia direct the Respondents to forthwith release the Retention Money BGs (as annexed at ANNEXURE P-20) lodged by the Petitioner No. 1, with Respondent No. 2, under the Agreement.

c. Pass any other reliefs as this Hon'ble Court deems fit in the facts of the present matter.”

2. Material on record indicates that Respondent No.2/NBCC invited bids for “Miscellaneous Building for ESIC at MGM, Parel, Mumbai (Phase II work) and providing non-medical equipments and furniture”. The Petitioner No.1 participated in the bidding process and was declared as the successful bidder. The work was awarded to the Petitioner No.1 and an agreement was entered into between Petitioner No.1 and Respondent No.2/NBCC on 18.04.2021.

3. It is stated by the learned Counsel for the Petitioner that the work has been completed and final bills have been raised. He draws attention of this Court to various letters written by Respondent No.2/NBCC to Respondent No.1/ESIC stating that the work has been completed to the satisfaction of NBCC and the bills raised by Petitioner No.1 be cleared. It is stated that despite the fact that Respondent No.2/NBCC has no reservations in the payment, the Respondent No.1/ESIC is not clearing the final bills raised by



Petitioner No.1. It is stated that defect liability period is also over and the performance guarantee has been returned to the Petitioner No.1 which indicates that the work has been completed.

4. Issue notice.
5. Learned Counsel appearing for Respondents accept notice.
6. Counter affidavit be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.
7. List on 26.09.2024.

SUBRAMONIUM PRASAD, J

MAY 28, 2024

S. Zakir