

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP (C) 2013/2021 c/w
WP (C) No. 102/2020
CCP(S) 116/2020
WP(C) 3944/2019

M/S. M.R. Industries HMT

... Petitioner(s)

Through: *Mr. Nisar Ahmad Bhat, Adv, for petitioner(s)
in WP(C) 2013/2021 and WP(C) 102/2020
None for petitioner(s) in WP(C) No. 3944/2019*

V/s

Government of Jammu and Kashmir and Ors.

Through: Mr. Asif Maqbool, Dy.AG.

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER
07.12.2021

WP(C) 2013/2021

Learned counsel for the respondents seeks and is granted four weeks' time to file objections.

List on 11.03.2022.

WP(C) 102/2020, CCP(S) No. 116/2020

01. The petitioner is a Small-Scale Industrial Unit situated at Industrial Estate Zainakote, Srinagar, and is engaged in the manufacturing of steel tubular poles. Pursuant to the supply orders issued by the respondent no. 2, the petitioner made supply of requisite number of steel tubular poles and on account of such supplies made by the petitioner, the petitioner became entitled to a payment of Rs. 1,03,96,781/-. The petitioner claims that final

bill for the aforesaid amount was submitted to the respondent no. 2, which was duly verified and acknowledged by the Deputy General Manager of respondent no. 3. It is grievance of the petitioner in this petition that though his final bill has been accepted and duly verified, yet the payment, which has become due to the petitioner, has not been released by the respondent no. 2 on the ground

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that it has not received payment from the various divisions of the Power Development Department.

02. On being put on notice, the respondent no. 2 has filed its response and has not disputed the payment due to the petitioner on account of supply of steel tubular poles to various divisions of the Power Development Department. It is, however, submitted that since the funds are to be provided by the Power Development Department and the role and responsibility of the respondent no. 2 is only that of facilitator.
03. Having heard learned counsel for the parties and perused the material on record, I am of the view that once the respondent no. 2 admits its liability towards the petitioner, then it is for the respondent no. 2 to take up the matter with the Power Development Department or its divisions concerned for arranging the requisite funds.
04. Having regard to the supply orders placed on record by the petitioner, which are not disputed by the respondent no. 2, the privity of contract is between the petitioner and respondent no. 2 and whatever amount is payable under the supply orders to the petitioner, is to be paid by the respondent no. 2. It is for the respondent no. 2 to arrange the requisite funds from the requesting department i.e. Power Development Department. Since both the respondent no. 2 as well as KPDCL (erstwhile PDD) are Public Sector Undertakings of the Government and, therefore, it is equally the responsibility of the KPDCL to make available the requisite funds to

the respondent no. 2 so that it is in a position to disburse the amount due to the petitioner.

05. For the forgoing reasons, this petition is allowed with the following directions: -

- i. That respondent no. 2 shall approach in writing the respondents 3 to 8 by addressing separate communication along with copy of this Order for providing requisite funds to discharge the liability towards the petitioner. This communication shall be issued by the respondent no. 2 within one week from today.
- ii. The respondents 3 to 8 shall endeavour to make requisite funds available to respondent no. 2 within four weeks thereafter.
- iii. The respondent no. 2 shall disburse the admitted amount in favour of the petitioner within two weeks thereafter, after completing all requisite codal formalities. It is further provided that in case the schedule, as indicated above, is not adhered to by the respondents, the entire amount shall become payable along with interest @ 9%.

06. **Disposed of** along with connected CM(s).

In view of the disposal of the writ petition, the contempt petition does not survive for further consideration and is, accordingly, **closed**.

WP(C) 3944/2019

Await appearance of learned counsel for the petitioner.

In the interest of justice, adjourned.

List for consideration on 11.03.2022.

(SANJEEV KUMAR)
JUDGE

Srinagar
07.12.2021
"Shamim Dar"

Whether the order is reportable? Yes/No