

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-2411 of 2018

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Agha Faisal.

Khaliq DadPetitioner

Versus

Province of Sindh & othersRespondents

Date of hearing 14.02.2019

Petitioner is present a/w his counsel M/s. Wasique Ahmed Kehar and Zameer Ahmed Bhutto advocates.

Ms. Saima Anjum advocate for the respondent No. 2 to 5.

Mr. Jawwad Dero, Addl. A.G a/w Mr. D.M. Khan advocate.

Ghulam Mustafa, Accounts Officer and Roshan Ali Memon, Assistant Accounts Officer, D.M.C., East, Karachi.

Muhammad Ali Mazhar, J: On last date of hearing there was a controversy between petitioner's counsel, learned counsel for the DMC East and Account Officer/Officers present in court. The DMC officials were of the view that only a sum of Rs.91,16,761/- is payable to the petitioner, whereas, learned counsel for the petitioner was arguing that balance amount is Rs. 1,62,51,240/-. Today learned counsel for the respondent No. 2 to 5 has submitted statement duly signed by Account Officer and Assistant Account Officer of DMC East, Karachi and both officials are also present in court. After going through the statement, learned counsel for the petitioner has given a clear statement on instructions of the petitioner who is also present in court and agrees that balance amount is only 91,16,761/-.

2. Learned counsel for the DMC East, Karachi has shown us a letter dated 29.03.2018 issued by Section Officer-V,

Local Government Department, Government of Sindh that was communicated to the Municipal Commissioner, DMC East, Karachi with regard to the payment of liabilities on account of Qutub Khan Construction Co. In this letter directions were issued to the Municipal Commissioner for physical verification of work and also submit some information which were mentioned at Sr. No. 1 to 9 but no action was taken to ensure the payment of the petitioner.

3. Learned Addl. A.G. argued that at the moment a ban has been imposed by the Local Government Department against the payment of all outstanding liabilities.

4. The Petitioner participated in the tender proceedings and he was found lowest and was issued work order for the construction of Mehmood Shah Bukari Road from Kala Pul to Naz Biryani in U.C. 04, Jamshed Town and at page No. 73 the completion report is also available with regard to same work and the completion report is duly signed by Town Officer and Deputy Town Officer, Jamshed Town. In the same completion report, it is further stated that work was started on 03.12.2010 and it was completed on 20.03.2011. At page No. 91, the petitioner has attached a slip to show that partial payment was made and the balance amount is also shown same as today the Account Officer and Assistant Account Officer have admitted the liability. The work was completed in 2011 according to the completion report but no payment has been made so far and now DMC East, Karachi and Local Government both are taking a plea that since ban has been imposed, therefore, they cannot make any payment which is totally unjustified. If there was some issue regarding completion of work that should have been intimated at the relevant time to rectify the defects but nothing placed on record to show that petitioner has violated the terms and conditions of the work order or there was any complaint of sub-standard work even today statement has been filed with admission of liability which has been mentioned supra.

5. Learned counsel for the respondent No. 2 to 5 submits that the admitted liability can only be paid once the Local Government release the funds to the DMC East, Karachi and if funds are released to the DMC the payment shall be paid to the petitioner. Learned counsel for the petitioner further argued that ban, if any, was imposed in 2016, whereas, the work was completed in 2011 but due to carelessness and negligence act of the DMC East, the amount was withheld without any justification. Since this is the case of admitted liability without any factual controversy, therefore, the petition is disposed of with the directions to the Secretary Local Government, Government of Sindh to release the fund equivalent to the admitted liability to the DMC East, Karachi for making payment to the petitioner. This exercise should be done within sixty (60) days.

JUDGE

JUDGE

Aadil Arab