

## **JUDGMENT SHEET.**

### **IN THE ISLAMABAD HIGH COURT, ISLAMABAD.** **JUDICIAL DEPARTMENT.**

**W.P. No. 1989/2020**

M/s Nawaz & Co.

*versus*

National Highway Authority through Chairman, etc.

**Petitioner by:** Mr. Ashfaq Ahmed Khan, Advocate.

**Respondents by:** Mr. M. Iftikhar Gul, Advocate.

**Date of Decision:** 22.09.2020.

**MOHSIN AKHTAR KAYANI, J:** Through this Writ Petition, the petitioner has prayed for issuance of direction to the respondent department/NHA to decide the pending claim/matter of petitioner's company in accordance with NHA Code, rules & regulations.

2. Learned counsel for the petitioner contends that petitioner successfully completed many projects being NHA contractor and on 13.09.2017 petitioner provided services at Bakrala Bridge on Grand Trunk Road near Wazirabad on the instructions of NHA due to damage caused by way of accident; that all the work was carried out on emergency basis and started on the verbal instructions of the respondent department, however, request for clearance of bill has not been settled as of today under NHA Rules & Regulations, whereby ex-post facto approval of competent authority could be granted.

3. Conversely, learned counsel for NHA contends that instant writ petition is not competent as facts narrated in the instant matter is based upon disputed question which could only be resolved after recording of evidence.

4. Arguments heard, record perused.

5. Perusal of record reveals that petitioner being NHA contractor has provided repair & maintenance service at KM 1461-1464 on N-5 in September 2017 due to emergency highway safety work at Bakrala Bridge, the estimated

claim submitted by the petitioner was Rs.13,848,647.05 which was not approved at that time and as such the claim is still unsettled.

6. The para-wise comments submitted by NHA clearly spell out that NHA has not denied the execution of work by the petitioner but they have taken a specific stance that certain amount was paid for work mentioned at S.No. a, b & c in reply of Para-5, however, payment of work executed for site providing and fixing of steel railing at S.No. d in reply to Para-5 is pending for which engineer estimate amounting to Rs.4,795,746/- is in process for soliciting ex-post facto approval of the competent authority.

7. All these disputed facts reflect that claim of petitioner to the extent of his provision of due service has been acknowledged but certain payments have not yet been settled due to ex-post facto approval required in this case. While considering all these aspects the question of payments which has not been acknowledged by the respondents department could not be settled in constitutional jurisdiction as it requires recording of pro & contra evidence of parties, therefore, instant writ petition stands disposed of with direction to the petitioner to approach the court of competent jurisdiction to get redressed his grievance, if so advised.

(MOHSIN AKHTAR KAYANI)  
JUDGE

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