



2026:CGHC:302-DB



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 777 of 2025**

1 - Rahul Kumar S/o Basant Meenpal Aged About 26 Years Occupation - Unemployed Engineer, R/o Village - Demar, Tahsil And Distt. Dhamtari (C.G.)
... Petitioner(s)

versus

1 - State Of Chhattisgarh Through, Secretary Department Of Forest, Mahanadi Bhavan, Nava Raipur, Distt. Raipur (C.G.)

2 - Principal Chief Conservator Of Forests Atal Nagar Nava Raipur (C.G.)

3 - Chief Conservator Raipur Circle Distt. Raipur (C.G.)

4 - Divisional Forest Officer Division Balodabazar, Distt. Balodabazar- Bhatapara (C.G.)
---- Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Sanjay Pathak, Advocate.
For State	:	Mr. Prasun Bhaduri, Dy. A.G.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Arvind Kumar Verma, Judge****Order on Board****Per Shri Ramesh Sinha, Chief Justice****05.01.2026**

1. Heard Mr. Sanjay Pathak, learned counsel for petitioner. Also heard and Mr. Prasun Bhaduri, learned Deputy Advocate General, for the State.

The present writ petition has been filed by the petitioner with the following prayers:



"I. That, this Hon'ble Court may kindly be pleased to call the entire records regarding claim of the petitioner from the respondent authorities as well as proceeding of the respondent No. 2

ii. That, this Hon'ble Court may kindly be pleased to quash the impugned order dated 05.09.2024 (Annexure P-1) passed the respondent No. 2 and direct the respondent to consider the case of the petitioner and pay the amount of his bills, within stipulated period.

iii. That, this Hon'ble Court may kindly be pleased to quash the impugned order dated 05.09.2024 (Annexure P-1) passed the respondent No. 2 and direct the respondent to consider the case of the petitioner and pay the remaining amount of Rs. 8,24,335/- of his bills, within stipulated period.

iv. That, this Hon'ble Court may kindly be pleased to direct the respondent to done remaining payment of bills to the petitioner as he duly entitled the same

v. That, this Hon'ble Court may kindly be pleased to direct the respondents to grant 8% interest on delayed payment.

vi. Any other relief, which this Hon'ble Court deems fit and proper, may also kindly be granted, in the interest of justice."

2. Learned counsel for the petitioner submits that the respondent no.4 issued tender for Construction of Pound at room no. 289 Dhamalpura, area Devpur, petitioner applied for said tender and the respondent no. 3 considered his application and found fit, subsequently on 25.02.2022 work order issued in favor of the petitioner and agreement done between petitioner and respondent no. 4. As per work order dated 25.02.2022, petitioner started working and completed his work very honestly, construction of pound is completed and peoples are using day to day, but the respondent no. 4 not done payment to the



petitioner. Thereafter the respondent no. 2 has directed the respondent no. 3 to conduct the verification of the work allotted in the year 2020-21 for construction of Dam and Pound at Forest of Balodabazar and on the instruction of the same the respondent no. 3 has submitted its report on 03.06.2022 before the respondent no. 2 in which it has been mentioned in para 5 of the report that the work of the petitioner is complete. After completion of the work the respondent authorities have inspected the work and after inspection issued certificate of completion of work in which it has been clearly mentioned that the work allotted to the petitioner has been duly completed.

3. Learned counsel for the petitioner further submits that thereafter on 31.08.2022 the petitioner received of Rs. 13,79,245/- out of Rs. 31,52,007/- and he has not received remaining amount of Rs. 17,74,762/- even after 6 months of completing the work therefore he requested for payment of remaining amount vide letter dated 19.12.2022. The respondent No. 3 vide its letter dated 19.06.2023 directed the respondent No. 4 for remaining payment of bills of the petitioner and thereafter the petitioner has received payment of Rs. 9,48,427/- and remaining amount of Rs. 8,24,335/- is not received till date. There is no any complaint against work of the petitioner and he has not received any letter from office of the respondent authorities regarding negligence of work, now about more than two years the respondent authorities have rejected the representation of the petitioner on the ground that the petitioner has not completed the work and his work is not satisfactory. The respondent no. 3 without any reason have not done the payment of the bills of the petitioner,



therefore the petitioner made many representations before the respondents and again on 05.02.2024 made representation before the respondent, but they have never sent any letter to the petitioner regarding his work is not complete and satisfactory and after more than two years they rejected his claim saying that he is not entitled to get any further amount, which is bade in eye of law.

4. Mr. Pathak, learned counsel for the petitioner submits that due to inaction on the part of the respondent who after completion the work not make the payment of bills of the petitioner as he duly entitled the same even after several representations, therefore the petitioner has filed writ petition before this Hon'ble Court which was disposed off vide order dated 13.06.2024 in W.P.(C) No. 2780/2024 and held as under :-

5. Considering the submission of learned counsel for the parties and also facts and circumstances of the case based on documents placed along with writ petition in particular Annexure P-5 without commenting anything on merit of claim of the petitioner this writ petition is disposed of directing respondents No.3 & 4 to consider the claim of the petitioner and decide the pending representation (Annexure P-6) expeditiously, preferably within a period of 3 months from the date of receipt of order passed by this Court Copy of order dated 13.06.2024 passed in W.P.(C) No. 2779/2024 is filed and marked as Annexure P-8

5. Learned counsel for the petitioner further submits that. The respondents' failure to release the admitted payment despite the petitioner's repeated representations amounts to arbitrary and unreasonable conduct in violation of Article 14 of the Constitution of India. The respondents have failed to discharge their statutory and contractual obligations, thereby compelling the petitioner to run from



pillar to post for realization of his lawful dues. He further submits that the amount payable to the petitioner is wholly undisputed. It is well settled that even in matters arising out of a contract, if the action of the State or its instrumentalities is found to be arbitrary or unreasonable, the High Court, in exercise of its writ jurisdiction under Article 226 of the Constitution, can grant relief. Reference is made to ***ABL International Ltd. & Another v. Export Credit Guarantee Corporation of India Ltd. & Others, (2004) 3 SCC 553***, wherein the Hon'ble Supreme Court held that the State cannot act arbitrarily even in contractual matters and that writ jurisdiction is maintainable in such cases. It is further settled law that it is not an inviolable rule that no money claim can be entertained in writ proceedings. Non-payment of admitted and undisputed dues by the State or its authorities amounts to arbitrary action attracting the writ jurisdiction of the Hon'ble High Court. Reliance is placed on ***Surya Constructions v. State of Uttar Pradesh & Others, (2019) 16 SCC 794***, wherein the Hon'ble Supreme Court held that writ petitions are maintainable for recovery of admitted dues when the State acts unfairly or unreasonably.

6. In light of the foregoing facts and settled legal principles, the petitioner prays that this Hon'ble Court may be pleased to direct the respondent authorities to release the admitted amount of Rs. 8,24,335/- along with interest and costs, and to pass such further orders as may be deemed just and proper in the facts and circumstances of the case.
7. On the other hand, learned State Counsel opposes the submissions made by the learned counsel for the petitioner and submits that the



writ petition as framed and filed are not maintainable as the disputed question of facts cannot be adjudicated in writ petition under Article 226 of the Constitution of India.

8. We have learned counsel for the parties, perused the impugned order and other documents appended with writ petitions.
9. It is settled law that the High Court should not exercise its jurisdiction under Article 226 of the Constitution of India when it raises disputed question of facts.
10. The Hon'ble Supreme Court in the case of Chairman, **Grid Corporation of Orissa Ltd. (GRIDCO) & Others v. Sukamani Das (Smt.) & Another**, reported in (1999) 7 SCC 298 was dealing with the question of whether the High Court had made an error in entertaining a writ petition filed seeking compensation for the death of a person due to electrocution, which had allegedly been caused due to the negligence of the authorities. The Hon'ble Supreme Court in the said case observed as under:

"6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that "admittedly/prima facie amounted to negligence on the part of the appellants". The High Court failed to appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. The mere fact that the wire of the electric transmission line belonging to Appellant 1 had snapped and the deceased had come in contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had



snapped as a result of any negligence of the appellants and under which circumstances the deceased had come in contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. These questions could not have been decided properly on the basis of affidavits only. It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy. The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the civil court as it was done in OJC No. 5229 of 1995."

(emphasis supplied)

11. The aforesaid judgment has been relied/ reiterated by the Hon'ble Supreme Court in **S.P.S. Rathore v. State of Haryana & Others**, reported in (2005) 10 SCC 1 wherein it observed as follows:

"16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there



is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution."

(emphasis supplied)

12. Similarly, the Hon'ble Supreme Court in **Shubhas Jain v. Rajeshwari Shivam**, reported in 2021 SCC OnLine SC 562 has held as under:

"26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable."

13. Subsequently, in Union of India vs. Puna Hinda, reported in (2021) 10 SCC 690, the Hon'ble Supreme Court has observed:

"24. Therefore, the dispute could not be raised by way of a writ petition on the disputed questions of fact. Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. The dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts. There is no admission on the part of the appellants to infer that the amount stands crystallised. Therefore, in the absence of any acceptance of joint survey report by the competent authority, no right would accrue to the writ petitioner only because measurements cannot be undertaken after passage of time. Maybe, the resurvey cannot take place but the measurement books of the work executed from time to time would form a reasonable basis for assessing the amount due and payable to the writ petitioner, but such process could be



undertaken only by the agreed forum i.e. arbitration and not by the writ court as it does not have the expertise in respect of measurements or construction of roads.”

14. Recently, the Hon'ble Supreme Court in the case of M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India (P) Ltd., reported in (2023) 2 SCC 703, while dealing with the issue of exercise of writ jurisdiction by a Court in matters arising out of a contract, has stated:

“82.7. The existence of an alternate remedy, is, undoubtedly, a matter to be borne in mind in declining relief in a writ petition in a contractual matter. Again, the question as to whether the writ petitioner must be told off the gates, would depend upon the nature of the claim and relief sought by the petitioner, the questions, which would have to be decided, and, most importantly, whether there are disputed questions of fact, resolution of which is necessary, as an indispensable prelude to the grant of the relief sought. Undoubtedly, while there is no prohibition, in the writ court even deciding disputed questions of fact, particularly when the dispute surrounds demystifying of documents only, the Court may relegate the party to the remedy by way of a civil suit.”

(emphasis supplied)

15. A reading of the aforesaid judgments makes it clear that it is well settled proposition of law that when there are disputed question of facts involved in a case, the High Court should not exercise its jurisdiction under Article 226 of the Constitution of India. It has been held that the remedy under Article 226 of the Constitution of India may not be proper.

16. In the present cases, the relief of compensations sought by the petitioner is contingent upon the resolution of the disputed question of facts raised, and these questions cannot be adjudicated under Article 226 of the Constitution of India. In view of the aforesaid, it would not



be appropriate for this Court to entertain the present writ petition as there are disputed questions of fact involved.

17. Considering the submissions advanced by learned counsel for the parties, further considering the disputed questions of fact involved in this writ petition, the reliefs sought by the petitioner and in view of law laid down by the Hon'ble Supreme Court in the above-stated judgments (supra), we do not find any good ground to entertain this writ petition.

18. Accordingly, the present writ petition being devoid of merit is liable to be and is hereby **dismissed**. However, liberty is reserved in favour of the petitioner to take recourse to other alternate remedies available to him under the law. No cost(s).

Sd/-
(Arvind Kumar Verma)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice