



2026:CGHC:3753-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 306 of 2026

M/s. Dipti Infrabuild Cger10827, I-20, Sector-1, Agroha Colony, Near Raipura, Raipur, District Raipur (C.G.), Through Its Proprietor Smt. Meena Devi, W/o. Shri D.K. Rao, Aged About 46 Years, Through Her Special Power Of Attorney D.K. Rao, S/o Late Chandrika Rao, Aged About 43 Years, R/o I-19, Sector-I, Agroha Colony, Near Raipura, Raipur, District Raipur (C.G.)

... Petitioner(s)

versus

1 - The State Of Chhattisgarh Through The Secretary, Department Of Public Works, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Distt Raipur (C.G.)

2 - The Engineer In Chief Department Of Public Works, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Distt Raipur (C.G.)

3 - The Chief Engineer Department Of Public Works, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Distt Raipur (C.G.)

4 - The Superintending Engineer Department Of Public Works, Durg Division, District Durg (C.G.)

5 - The Executive Engineer Department Of Public Works, Durg Division, District Durg (C.G.)

6 - The Sub Divisional Officer Department Of Public Works, Sub Division- 1, Durg, Division Durg, District Durg (C.G.)

7 - The Principal Government Danvir Tularam Post Graduate College, Utai, District Durg (C.G.)

...Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner	: Shri Pushpendra Kumar Patel, Advocate
For Respondents/State	: Shri P Das, Addl AG

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Justice Ravindra Kumar Agrawal
Order on Board

Per Ramesh Sinha, Chief Justice
22.01.2026



Heard Shri Pushpendra Kumar Patel, learned counsel for the petitioner. Also heard Shri P Das, learned Addl AG for the State.

1. Petitioner has filed the present petition for the following reliefs:

“10.1 That, this Hon’ble court, may kindly call for the entire record in relates to the case of the Petitioner.

10.2 That, this Hon’ble Court may kindly be pleased to issue a writ/writs, order/orders, to quash the impugned memo No.57/AR.01/2025-26, dated 02.01.2026 (Annexure P1), issued by the Respondent No.05.

10.3 That, this Hon’ble Court may kindly be pleased to issue a writ /writs, order/orders, to direct the Respondent authority to reinstate the work order dated 15.04.2025 & extend the time for completion of allotted work up to 30.04.2026, in the interest of justice.

10.4 That, any other relief, this Hon’ble Court, deem fit and proper may also kindly be granted to the Petitioner, in the interest of justice.”

2. Respondent authorities issued Notice Inviting Tender (NIT) No.159 dated 20.12.2024 for construction of 08 additional Class rooms in the Government College, Utai, District-Durg, which had been allotted to the petitioner firm on 15.04.2025 vide work order No.3913/T0043/SAC/2025-2026. As per the work order, completion of work period was for 08 months from the reckoned date, and the petitioner has to deposit the performance bank guarantee for a period of 60 months, which has been



deposited by the petitioner on 15.04.2025. After issuance of the work order, petitioner visited the spot for going ahead with the work but on the instruction of respondent-7, execution work could not be started, and for one reason or the other, when construction work also could not be started by the petitioner, respondent-6 intimated the petitioner to complete the allotted work within the time limit, and submit the action plan. Petitioner submitted his stand on 11.12.2025 disclosing all the stage-wise factual matrix, and prayed for extension of time. In the meantime, suddenly, respondent-5 vide its impugned order, terminated the work order on account of commission of fundamental breach of Contract under Clause-38 and under either of the sub-Clause 3(ii), (a) and (d) of Clause 3 of the Contract agreement. Petitioner had requested the authority concerned to review the impugned termination order by his representation dated 09.01.2026, which is pending consideration. Hence this petition.

3. Learned counsel for the petitioner submits that the action of the respondent department caused mental agony and financial hardship to the petitioner as the subject work could not be executed on the instruction of respondent-7, as the authority concerned not allowed the petitioner to start the construction work, which was duly intimated to the authorities well within time. In terms of the NIT, as well as agreement, petitioner had constructed the class rooms up to door level and waited for the drawing, for which he could not move ahead for completion of construction work, whereas all the building construction material has been dumped on the spot. The respondent department without any



compensation or notification to the petitioner, terminated the work order of the petitioner. He further submits that the respondents have no right to keep the subject matter hanging as the dispute hindrance is caused due to negligence on the part of the respondent department in providing the required drawing of the 08 rooms. As such, the writ petition deserves to be allowed. He relied upon the judgment of the Patna High Court in **Raghoji House of Distribution Versus State of Bihar** reported in **2022 SCC OnLine Pat 2368**.

4. 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 is not maintainable as the disputed question of facts cannot be adjudicated in writ petition under Article 226 of the Constitution of India.

5. We have learned counsel for the parties, perused the impugned order and other documents appended with writ appeal.

6. 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.

7. The Hon'ble Supreme Court in **Shubhas Jain v. Rajeshwari Shivam, 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."

8. Subsequently, in **Union of India Vs. Puna Hinda, (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."



9. Recently, the Hon'ble Supreme Court in the case of **M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India (P) Ltd., (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)

10. 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.

11. From perusal of the pleadings, it appears that the petitioner has prayed for quashing of the impugned memo No.57/Ar.01/2025-26, dated



02.01.2026 (Annexure P1) issued by respondent-5, and to reinstate the work order dated 15.04.2025 and extend the time for completion of allotted work up to 30.04.2026.

12. In the instant case, the above relief 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.

13. In view of the aforesaid, it would not be appropriate for this Court to entertain the instant writ petition as there are disputed questions of fact involved.

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

15. Accordingly, the 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/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice