



2026:CGHC:21769-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1785 of 2025

Om Enterprises A Partnership Firm Having Its Office Near Bus Stand, Chhurikala, District - Korba, Through Its Partner Anupam Agrawal, S/o Gopal Agrawal, Age About 30 Years R/o Ward No. - 10, Chhuri, Katghora, Korba Chhattisgarh

... Petitioner(s)

versus

1 - Union Of India Through Its Secretary Ministry Of Jal Shakti/ Department Of Drinking Water And Sanitation, Cr Section, Room No. 224, Shram Shakti Bhawan, Rafi Marg, New Delhi, New Delhi - 110001 Water Resources Department

2 - State Of Chhattisgarh Through Secretary, Ministry Of Public Health Engineering Department, Mantralaya, Mahanadi Bhawan, Nava Raipur, District - Raipur Chhattisgarh

3 - Mission Director Jal Jeevan Mission, Neer Bhawan, Civil Lines, Raipur, District - Raipur Chhattisgarh

4 - Collector/ President District Water And Sanitation Mission (Dwsm), Public Health Engineering Division, District - Mahasamund Chhattisgarh

5 - Executive Engineer/ Member Secretary District Water And Sanitation Mission (Dwsm), Public Health Engineering Division, District - Mahasamund Chhattisgarh

... Respondent(s)

For Petitioner(s)	: Mr. Mahesh Mishra, Advocate
For UOI / Respondent No. 1	: Mr. Ramakant Mishra, DSGI
For State	: Mr. Praveen Das, A.A.G.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

08/05/2026

1. Heard Mr. Mahesh Mishra, learned counsel for the petitioner. Also heard Mr. Ramakant Mishra, DSGI, for Union of India and Mr. Praveen Das, learned Addl. Advocate General, appearing for State.
2. The present petition has been filed under Article 226/227 of Constitution of India by the petitioner with the following relief:-

“(10.1) That, this Hon'ble Court may kindly be pleased to issue appropriate writ/ writs to direct the respondent authorities to make the Full and Final payment in the tender no. 91699 Rs. 19.79 Lacs, 91697 Rs. 30.41 Lacs, 92965 Rs. 28.17 Lacs, 92962 Rs. 34.13 Lacs and 9295 Rs. 46.36 Lacs, within the stipulated period of time as Hon'ble Court may prescribed for it.

(10.2) That, the Hon'ble Court may kindly be pleased to issue appropriate writ/writs to direct the respondent authorities to make the remaining payment of Rs.1.13 lacs in the case of tender number 91695 within the stipulated period of time as Hon'ble Court may prescribed for it.

(10.3) Any other relief, including the cost of this petition, as it appears to be fit and appropriate to

this Hon'ble Court be granted.”

3. The case of the prosecution in brief are that the petitioner is a duly constituted partnership firm engaged in the business of construction products, hardware and electrical items. For implementation of the Jal Jeevan Mission in District Mahasamund, a meeting of the District Water and Sanitation Mission was held on 31/08/2021 under the chairmanship of the Collector, Mahasamund, wherein approval was granted for issuance of online tenders for providing drinking water facilities through running water systems in schools, Anganwadis, Up-Swasthya Kendras and other government buildings situated in various Gram Panchayats of the district. Pursuant thereto, respondent authorities invited online tenders and the petitioner was declared successful bidder in nine tenders for execution of water supply schemes under the mission.

4. Thereafter, work orders were issued in favour of the petitioner and, in compliance thereof, the petitioner completed the entire work within the stipulated time. Completion certificates, testing certificates and transfer certificates were also issued by the competent authorities after due verification and the completed schemes were handed over to the respective Gram Water and Sanitation Committees for operation and maintenance. After completion of the work, the petitioner submitted its bills before the competent authorities for release of payment.

5. However, despite successful completion of the work and issuance of completion certificates, the respondent authorities have withheld substantial payment of the petitioner. Out of nine tenders, full payment

was released only in respect of three tenders, whereas in tender Nos. 91699, 91697, 92965, 92962 and 92958 no payment whatsoever has been made. Further, in tender No. 91695 only part payment has been released and an amount of approximately Rs.1.5 Crores is still outstanding towards the petitioner.

6. It is further the case of the petitioner that even though directions were issued by the higher authorities, including the Joint Director (Finance), Office of Mission Director, to take necessary action for release of payment, the respondent authorities failed to comply with the same. Instead, respondent no.05 sought clarification from respondent no.03 on the ground that oral instructions had been issued not to release payment in running water schemes. Being aggrieved by the non-payment of legitimate dues despite repeated representations, the petitioner has approached this Court by way of the present writ petition seeking appropriate directions for release of the outstanding payment along with consequential reliefs.

7. Learned counsel for the petitioner would submit that the petitioner firm was declared successful bidder in nine tenders floated under the Jal Jeevan Mission for providing running water supply facilities in various villages situated in District Mahasamund. Pursuant to the issuance of work orders, the petitioner completed the entire work within the stipulated period strictly in accordance with the terms and conditions of the agreement. After due inspection and verification, the competent authorities issued completion certificates, testing certificates and

transfer certificates in favour of the petitioner, thereby acknowledging satisfactory execution of the work. Thereafter, the completed schemes were handed over to the respective Gram Water and Sanitation Committees for operation and maintenance. It is further submitted that despite completion of the work and submission of bills before the competent authority, the respondent authorities have failed to release the legitimate dues of the petitioner. Out of nine tenders, complete payment has been made only in respect of three tenders, whereas in several tenders no payment whatsoever has been released and in one tender only part payment has been made, leaving substantial dues outstanding against the respondents.

8. It is further submitted that the action of the respondents in withholding the payment is wholly arbitrary, unjustified and violative of Articles 14 and 300-A of the Constitution of India, particularly when there exists no dispute regarding the execution or quality of the work undertaken by the petitioner. The respondents themselves have acknowledged completion of the work by issuing completion and testing certificates and, therefore, cannot deny payment without any lawful justification. It is also submitted that sufficient funds were made available under the scheme and directions were issued by the higher authorities for release of payment to contractors executing the running water schemes, however, the payment of the petitioner has been withheld merely on the basis of alleged oral instructions, which is impermissible in law. Repeated representations submitted by the petitioner have also remained unattended, causing grave financial

hardship and mental harassment to the petitioner. Hence, the petitioner is entitled for issuance of an appropriate writ directing the respondent authorities to release the outstanding payment along with consequential benefits.

9. On the other hand, learned State counsel opposes the submissions made by the learned counsel for the petitioner and submits that the present writ petition filed by the petitioner is not maintainable under Article 226 of the Constitution of India, as the relief sought by the petitioner pertains to recovery of alleged contractual dues arising out of execution of works under the Jal Jeevan Mission. The petitioner has sought issuance of a writ directing payment of certain amounts allegedly due under different tenders, however, the dispute involves contractual obligations, financial liabilities and disputed questions of fact, which cannot appropriately be adjudicated in writ jurisdiction. It is submitted that though the petitioner was awarded certain works and completion certificates were issued by the concerned authority, the works in question were undertaken after expiry of the timeline prescribed under the "100 Days Campaign" initiated by the Government of India. Since the said campaign had already lapsed by the time the work orders were issued in favour of the petitioner, funds under the scheme could not be released for the said works.

10. It is further submitted that as per the policy guidelines governing the scheme and the provisions relating to the 15th Finance Commission grants, the concerned Gram Panchayats were the primary nodal agencies responsible for execution and payment of such works after

due verification. However, due to bona fide administrative irregularities, the works came to be executed through the Public Health Engineering Department and completion certificates were issued by its officers. The respondents submit that the petitioner is essentially seeking enforcement of contractual claims and recovery of money, for which an efficacious alternative remedy by way of a civil suit is available before the competent Civil Court. Since adjudication of the present controversy would require detailed examination of facts, documents and financial liabilities, the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India ought not to be invoked. Hence, the present writ petition deserves to be dismissed.

11. Learned counsel appearing on behalf of the Union of India, endorses the submissions made by learned State counsel, and submits that the present writ petition essentially pertains to enforcement of contractual claims and recovery of alleged dues under tenders executed pursuant to the Jal Jeevan Mission. He further submits that the dispute involves detailed factual and financial examination, and efficacious alternative remedies, including filing of a civil suit, are available to the petitioner. Accordingly, the extraordinary jurisdiction of this Court under Article 226/227 of the Constitution of India cannot be invoked, and the petition is not maintainable.

12. We have heard learned counsel for the parties and perused the record of the case.

13. It is trite law that writ jurisdiction is not intended to supplant

ordinary civil remedies, particularly in matters involving contractual disputes requiring adjudication of complex and disputed questions of fact. In "**State of Bihar v. Jain Plastics and Chemicals Ltd.**", 2002 (1) SCC 216, the Hon'ble Supreme Court has held that where the claim arises out of breach of contract and involves disputed facts, the appropriate remedy lies in a civil suit and not in a writ petition. In paragraph 7, it has been observed that:-

“7. In the present case many matters could be decided after referring to the contentions raised in the affidavits and counter-affidavits, but that would hardly be a ground for exercise of extraordinary jurisdiction under Article 226 of the Constitution in case of alleged breach of contract. Whether the alleged non-supply of road permits by the appellants would justify breach of contract by the respondent would depend upon facts and evidence and is not required to be decided or dealt with in a writ petition. Such seriously disputed questions or rival claims of the parties with regard to breach of contract are to be investigated and determined on the basis of evidence which may be led by the parties in a properly instituted civil suit rather than by a court exercising prerogative of issuing writs.”

14. The Hon'ble Supreme Court in **S.P.S. Rathore v. State of Haryana and others**, (2005) 10 SCC 1, 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)

15. As held by the Hon'ble Supreme Court in "**Joshi Technologies International Inc. v. Union of India**", 2015 (7) SCC 728, where adjudication involves serious factual controversies necessitating evidence, the writ court should decline to exercise jurisdiction and

relegate the parties to appropriate forums. In paragraphs 69 and 70, the legal position has been summarised that:-

“69. The position thus summarised in the aforesaid principles has to be understood in the context of discussion that preceded which we have pointed out above. As per this, no doubt, there is no absolute bar to the maintainability of the writ petition even in contractual matters or where there are disputed questions of fact or even when monetary claim is raised. At the same time, discretion lies with the High Court which under certain circumstances, it can refuse to exercise. It also follows that under the following circumstances, "normally", the Court would not exercise such a discretion:

69.1. The Court may not examine the issue unless the action has some public law character attached to it.

69.2. Whenever a particular mode of settlement of dispute is provided in the contract, the High Court would refuse to exercise its discretion under Article 226 of the Constitution and relegate the party to the said mode of settlement, particularly when settlement of disputes is to be resorted to through the means of arbitration.

69.3. If there are very serious disputed questions of fact which are of complex nature and require oral evidence for their determination.

69.4. Money claims per se particularly arising out of contractual obligations are normally not to be entertained except in exceptional circumstances.

70. Further, the legal position which emerges from various Judgments of this Court dealing with different situations/aspects relating to contracts entered into by

the State/public authority with private parties, can be summarised as under:

70.1. At the stage of entering into a contract, the State acts purely in its executive capacity and is bound by the obligations of fairness.

70.2. State in its executive capacity, even in the contractual field, is under obligation to act fairly and cannot practise some discrimination.

70.3. Even in cases where question is of choice or consideration of competing claims before entering into the field of contract, facts have to be investigated and found before the question of a violation of Article 14 of the Constitution could arise. If those facts are disputed and require assessment of evidence the correctness of which can only be tested satisfactorily by taking detailed evidence, involving examination and cross-examination of witnesses, the case could not be conveniently or satisfactorily decided in proceedings under Article 226 of the Constitution. In such cases the Court can direct the aggrieved party to resort to alternate remedy of civil suit, etc.

70.4. Writ jurisdiction of the High Court under Article 226 of the Constitution was not intended to facilitate avoidance of obligation voluntarily incurred.

70.5. Writ petition was not maintainable to avoid contractual obligation. Occurrence of commercial difficulty, inconvenience or hardship in performance of the conditions agreed to in the contract can provide no justification in not complying with the terms of contract which the parties had accepted with open eyes. It cannot ever be that a licensee can work out the licence if he

finds it profitable to do so: and he can challenge the conditions under which he agreed to take the licence, if he finds it commercially inexpedient to conduct his business.

70.6. Ordinarily, where a breach of contract is complained of, the party complaining of such breach may sue for specific performance of the contract, if contract is capable of being specifically performed. Otherwise, the party may sue for damages.

70.7. Writ can be issued where there is executive action unsupported by law or even in respect of a corporation there is denial of equality before law or equal protection of law or if it can be shown that action of the public authorities was without giving any hearing and violation of principles of natural justice after holding that action could not have been taken without observing principles of natural justice.

70.8. If the contract between private party State/instrumentality and/or agency of the State is under the realm of a private law and there is no element of public law, the normal course for the aggrieved party, is to invoke the remedies provided under ordinary civil law rather than approaching the High Court under Article 226 of the Constitution of India and Invoking its extraordinary jurisdiction.

70.9. The distinction between public law and private law element in the contract with the State is getting blurred. However, it has not been totally obliterated and where the matter falls purely in private field of contract, this Court has maintained the position that writ petition is not maintainable. The dichotomy between public law and

private law rights and remedies would depend on the factual matrix of each case and the distinction between the public law remedies and private law field, cannot be demarcated with precision. In fact, each case has to be examined, on its facts whether the contractual relations between the parties bear insignia of public element. Once on the facts of a particular case it is found that nature of the activity or controversy involves public law element, then the matter can be examined by the High Court in writ petitions under Article 226 of the Constitution of India to see whether action of the State and/or instrumentality or agency of the State is fair, just and equitable or that relevant factors are taken into consideration and irrelevant factors have not gone into the decision-making process or that the decision is not arbitrary.

70.10. Mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirements of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness.

70.11. The scope of judicial review in respect of disputes falling within the domain of contractual obligations may be more limited and in doubtful cases the parties may be relegated to adjudication of their rights by resort to remedies provided for adjudication of purely contractual disputes.”

16. 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."

17. 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)

18. 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.

19. From the pleadings of the parties and documents placed on record, it appears that the grievance of the petitioner pertains to non-payment of alleged outstanding dues arising out of contracts awarded under the Jal Jeevan Mission. The relief sought in the present writ petition is essentially for recovery of money under contractual arrangements entered into between the petitioner and the respondent authorities. Though the petitioner contends that the work has been completed and completion certificates have been issued, the respondents have disputed their liability by contending, inter alia, that the work orders were issued beyond the prescribed timeline of the scheme and that the funds under the scheme could not be released.

Thus, adjudication of the controversy would necessarily require examination of disputed questions relating to contractual liability, availability of funds, applicability of scheme guidelines and fixation of responsibility amongst different authorities, which cannot appropriately be undertaken in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.

20. Considering the submissions advanced by learned counsel for the parties, further considering the disputed questions of law 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.

21. 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

sagrika