



2026:CGHC:21075-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2260 of 2026

M/s Landmark Engineer Through - Proprietor Mr. Nishant Jain S/o Suresh Chand Jain S/o Suresh Chand Jain Age- 46 Year R/o Shanti Nagar Ring Road No.2 District- Bilaspur Chhattisgarh

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through- Secretary Department Of Mineral Resources Mahanadi Bhawan Atal Nagar, Raipur, Chhattisgarh,

2 - Collector Mining Division District- Mungeli, Chhattisgarh

3 - Chhattisgarh Rural Road Development Agency Through Chief Executive Officer Civil Lines Raipur Chhattisgarh,

4 - Executive Engineer C G R R D A - Piu Mungeli, District- Mungeli- Chhattisgarh,

5 - Chief Engineer Cgrrda Civil Lines Raipur Chhattisgarh

... Respondent(s)

For Petitioner(s) : Mr. Siddharth Shukla, Advocate

For Respondent(s) : Mr. Shashank Thakur, 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

06/05/2026

1. Heard Mr. Siddharth Shukla,, learned counsel for the petitioner. Also heard Mr. Shashank Thakur, learned Addl. Advocate General, appearing for Respondent/State.

2. The present petition has been filed under Article 226 of Constitution of India by the petitioner with the following relief:-

“i. To Set-Aside and Quash the Letter No.12/Mining 03/2020 dated 6th January 2020, issued by Respondent No.2 being without any authority of law.

ii. To direct the Respondent No. 3 to 5 to release the withheld amount of Royalty of Rs. 3.11 Crore Approx in respect of Package No-G 27-134 by overriding the Letter No.12/Mining 03/2020 dated 6th January 2020, issued by Respondent No.2 in alternative.

iii. Pass any other relief order or direction, as this Hon'ble Court dees fit and proper looking to the facts and circumstance of the case and in the interest of justice.”

3. The case of the prosecution in brief is that the Petitioner is a sole proprietorship, engaged in road construction, was awarded a Work

Order dated 04.05.2020 under PMGSY for construction and maintenance of roads in District Mungeli, which was duly completed despite COVID-19 disruptions, and a Completion Certificate dated 02.01.2023 was issued. Although the Petitioner had procured minor minerals upon payment of royalty, complete documentation could not be maintained due to the pandemic. At the stage of clearing the final (16th) bill, an amount of approximately Rs. 3.11 Crore was withheld by the Respondents solely on the ground of non-submission of a Royalty Clearance Certificate, relying upon a Letter dated 06.01.2020 issued by Respondent No. 2. The said condition, however, is neither part of the Tender Document-cum-Agreement nor supported by any statutory provision, and the withholding is not attributable to any defect in the work executed. Despite representations submitted by the Petitioner, the Respondents have failed to release the legitimate dues, giving rise to the present dispute.

4. Learned counsel for the petitioners would submit that the impugned action of the Respondents in withholding an amount of Rs. 3.11 Crore from the Petitioner's legitimate dues is wholly illegal, arbitrary, and without authority of law, being based solely on Letter dated 06.01.2020, which is merely an executive instruction lacking any statutory backing. It is submitted that such executive instructions cannot override or supplement the binding terms of the Tender Document-cum-Agreement, which exclusively governs the contractual relationship between the parties and does not provide for withholding of payments on account of non-submission of a Royalty Clearance Certificate. The

Respondents, being State instrumentalities, are bound to act strictly within the four corners of the contract and cannot impose additional conditions dehors the agreement. The impugned action is further violative of Article 14 of the Constitution of India, being manifestly arbitrary and unreasonable, and has been undertaken in breach of principles of natural justice, as no notice or opportunity of hearing was afforded to the Petitioner. It is further submitted that the retrospective application of the said executive instruction to concluded contractual obligations is impermissible in law, and the continued withholding of admitted dues, despite satisfactory completion of work, amounts to unjust enrichment by the State. In such circumstances, the impugned action deserves to be set aside and the Respondents be directed to release the Petitioner's legitimate dues forthwith.

5. 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.

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

7. 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.

8. 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."

9. 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)

10. 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.”

11. Similarly, 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."

12. 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."

13. 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)

14. 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.

15. From perusal of the pleadings, it appears that the Petitioner has prayed for issuance of an appropriate writ, order or direction to the Respondents for release of the withheld amount of Rs. 3.11 Crore pertaining to the final (16th) bill for the work duly executed under the Work Order dated 04.05.2020, along with interest at an appropriate

commercial rate. The Petitioner has further sought quashing of the action of the Respondents in withholding the said amount on the basis of Letter dated 06.01.2020 issued by Respondent No. 2, on the ground that the same is arbitrary, without authority of law and dehors the terms of the Tender Document-cum-Agreement. The Petitioner has also prayed for issuance of direction to the Respondents to consider and decide the representations submitted by the Petitioner.

16. In the instant case, the relief sought by the Petitioner for release of the withheld amount along with interest is intrinsically linked to the determination of disputed questions of fact, including whether the Petitioner had duly complied with the requirement of payment of royalty on minor minerals and whether the Royalty Clearance Certificate was liable to be produced in terms of the applicable conditions. Such issues would require appreciation of evidence and examination of factual aspects, which cannot be satisfactorily adjudicated in exercise of jurisdiction 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 the same involves disputed questions of fact better suited for adjudication before the competent forum.

17. 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.

18. 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

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