



2026:CGHC:21620-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5080 of 2024

Shri Vinay Jaiswal S/o. Shri Jagdish Prasad Jaiswal Aged About 44 Years
R/o. Village - Badsara, Bhaiyathan, District - Surajpur (C.G.) 497331.

... **Petitioner(s)**

versus

1 - Municipal Corporation Chirmiri Through - The Commissioner, Municipal Corporation, Chirmiri, Nagar Nigam Colony, Chirimiri, District - Manendragarh-Chirmiri-Bharatpur (C.G.) - 497773

2 - State Of Chhattisgarh Through - The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, Sector-19, Atal Nagar-Naya Raipur (C.G.) - 492002.

... **Respondents**

For Petitioner	:	Mr. Ankit Singhal, Advocate
For Respondent No. 1	:	Dr. Sudeep Agrawal, Advocate
For State/Respondent No.2	:	Mr. Praveen Durandhar, Addl. A.G.
For Intervener	:	Mr. Rajkumar Mishra, in person

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. Ankit Singhal, learned counsel for the petitioner. Also heard Dr. Sudeep Agrawal, learned counsel appearing for respondent No. 1, Mr. Praveen Dhurandhar, appearing for the State/Respondent

No. 2, Mr. Rajkumar Mishra, intervener in person.

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

“a That this Hon'ble Court may kindly be pleased to issue an appropriate writ, order or direction, quashing and setting aside the impugned letter dated 17.09.2024, whereby the representation of the Petitioner dated 04.09.2024 has been rejected by Respondent No. 1; and

b. That this Hon'ble Court may kindly be pleased to issue an appropriate writ, order or direction, directing the Respondent No. 1 to forthwith release the admitted amount of Rs. 63,39,782/ due and payable to the Petitioner, in terms of the First Bill (Annexure P-3 (Colly.)) issued by Respondent No. 1; and

c. That this Hon'ble Court may kindly be pleased to issue an appropriate writ, order or direction, directing the Respondent No. 1 to forthwith release the admitted amount of Rs. 21,20,439/- due and payable to the Petitioner, in terms of the Second Bill (Annexure P-11 (Colly.)) issued by Respondent No. 1; and

d. That, this Hon'ble Court may kindly be pleased to issue appropriate writ, order, or direction, directing the Respondent No. 1 to pay interest at the rate of 18% per annum on the amounts of Rs. 63,39,782/- and Rs. 21,20,439/- that are due and payable to the Petitioner, from the date of 27.07.2023 till the actual realisation of payment by Respondent No. 1, in light of the delay occasioned in releasing the payments, and the resultant damages suffered by the Petitioner; and

e. That this Hon'ble Court may kindly be pleased to grant any other relief or order that this Hon'ble Court deems just and equitable in the circumstances of the case, in order to uphold the principles of justice and fairness.”

3. Brief facts of the case are that that the Petitioner is a contractor engaged in execution of civil and engineering construction works and pursuant to Tender No. 128747 dated 24.03.2023 floated by Respondent No. 1 for construction of “Dr. B.R. Ambedkar Sarva Samaj Mangalik Bhawan” at Dadu Lahiri Chowk, near Sonwani, Work Order

dated 01.05.2023 was issued in his favour for a contract value of approximately Rs. 308.941/- lakhs. Thereafter, the Petitioner commenced the construction work and completed about 24% of the work, which was duly measured, verified and approved by the competent officials of Respondent No. 1 in Measurement Register No. 713/2023, pursuant to which the Petitioner became entitled to payment of the first running bill amounting to Rs. 63,39,782/-, which was also recommended for approval by the Executive Engineer vide memo dated 27.07.2023. While the Petitioner was continuing the work under the supervision and instructions of Respondent No. 1, he was subsequently directed vide Letter dated 28.08.2023 to stop further construction work, whereafter the Petitioner immediately ceased the work and repeatedly requested release of payment for the work already executed through various representations. However, despite repeated requests and despite directions issued by this Hon'ble Court in WPC No. 4193 of 2024 to consider the Petitioner's representation, Respondent No. 1 rejected the Petitioner's claim vide impugned Letter No. 2311 dated 17.09.2024 on the ground that a status quo order had been passed by the Estate Officer regarding the construction site. The Petitioner submits that he was never informed about any such alleged stay order prior to 28.08.2023 and that the work executed by him, including the dues of Rs. 63,39,782/- and subsequent dues of Rs. 21,20,439/-, stands duly verified and admitted in the official records of Respondent No. 1. Despite utilization and approval of the work executed by the Petitioner, the Respondents have illegally withheld the admitted dues of the

Petitioner, compelling him to approach this Hon'ble Court by way of the present writ petition. Hence, this petition.

4. Learned counsel for the petitioner submits that pursuant to Tender No. 128747 dated 24.03.2023 floated by Respondent No. 1 for construction of "Dr. B.R. Ambedkar Sarva Samaj Mangalik Bhawan" at Dadu Lahiri Chowk, near Sonwani, Work Order dated 01.05.2023 was issued in favour of the petitioner for a contract value of approximately Rs. 3,08,94,100/-. It is submitted that after issuance of the work order, the petitioner commenced the construction work and completed approximately 24% of the work, which was duly measured, verified and approved by the competent officials of Respondent No. 1 in Measurement Register No. 713/2023. On the basis of the verified measurements, the petitioner raised the first running bill amounting to Rs. 63,39,782/-, which was also recommended for payment by the Executive Engineer vide memo dated 27.07.2023. Learned counsel further submits that the petitioner continued the work under the supervision and directions of Respondent No. 1 till he was directed vide Letter dated 28.08.2023 to stop further construction work, whereafter the petitioner immediately ceased the work and repeatedly requested release of payment for the work already executed. It is contended that despite repeated representations and despite directions issued by this Court in WPC No. 4193 of 2024 directing Respondent No. 1 to decide the petitioner's representation in accordance with law, Respondent No. 1 illegally rejected the petitioner's claim vide impugned Letter No. 2311 dated 17.09.2024 on the ground that a status quo order had been

passed by the Estate Officer regarding the construction site. Learned counsel submits that the petitioner was never informed about any alleged stay order prior to 28.08.2023 and was carrying out the work strictly under the authority, supervision and approval of Respondent No. 1. It is further submitted that the work executed by the petitioner and the corresponding dues of Rs. 63,39,782/- and Rs. 21,20,439/- stand duly verified and admitted in the official records of Respondent No. 1, and therefore there are no disputed questions of fact involved in the present case.

5. Learned counsel for petitioner submits that Respondent No. 1 itself selected the site, floated the tender and issued the work order, and therefore any dispute relating to the site or permissions cannot be used to deny payment for the work already executed by the petitioner. It is further argued that withholding the admitted dues of the petitioner despite utilization and verification of the work amounts to arbitrary, unfair and unreasonable action violative of Articles 14 and 19(1)(g) of the Constitution of India. Learned counsel prays that the impugned rejection letter dated 17.09.2024 be quashed and Respondent No. 1 be directed to release the admitted dues along with interest.

6. On the other hand, learned counsel for the respondents and intervener in person 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.

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

8. 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.

9. 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)

10. 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)

11. 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."

12. 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."

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.***, 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)

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. In the present cases, the relief of compensations/dues 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 petitions as there are disputed questions of fact involved.

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

these writ petitions, 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 these writ petitions.

17. Accordingly, the present writ petitions being devoid of merit are liable to be and are 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**