

Himachal Kisan Sabha and others Vs. Union of India and others

CWPIL Nos. 99 and 104 of 2025

Reserved on: 16.1.2026

CWPIL No. 99 of 2025

23.1.2026 Present: Mr Ashok Kumar Verma, Advocate, for the petitioners.

Mr Balram Sharma, Deputy Solicitor General of India, with Mr Rajeev Sharma, Advocate, for respondents No.1, 2 and 12.

Mr Lokender Kutlehria, Additional Advocate General, for respondents No.3 to 10.

None for respondent No.11.

None for respondent No.3.

CWPIL No. 104 of 2025

Mr Abhinav Thakur, Advocate, vice Mr Ajay Kumar Sharma, Advocate, for the petitioner.

None for respondent No.2.

Mr Balram Sharma, Deputy Solicitor General of India, with Mr Rajeev Sharma, Advocate, for respondents No.1, 4 and 5.

Mr. K.D. Shridhar, Senior Advocate, with Ms Sneh Bhimta, Advocate, for respondent No.8.

Mr Lokender Kutlehria, Additional Advocate General, for respondents No.3 to 6, State.

Mr Uday Negi, Advocate, for respondent No.7.

CMP No. 1630 of 2026 in CWPIL No. 104 of 2025

The applicant/respondent no. 8 has filed the present application for modification of the order dated

5.1.2026, seeking a direction to respondent No. 7 to release the payment of running bills for the work already executed by the applicant.

2. The record shows that a Civil Writ Petition is pending before the Court. The Court ordered the issuance of notice to respondent No. 8 (present applicant), returnable for 24.11.2025. The steps were not taken for the service of respondent No.8, and fresh notices were ordered to be issued returnable for 5.1.2026. The Court noticed on 5.1.2026 that respondent No.8/present applicant was not present despite service; therefore, the Court directed respondent No. 7 in CWPI No.104 of 2025 not to release any amount to respondent No. 8 (the present applicant) till further orders due to its non-cooperation.

3. Respondent No. 8/applicant has filed the present application seeking the modification of the order passed by the Court, asserting that the maintenance and construction of NH-70 from Talyar to Lagdhar has been allotted by M/s Gawar Constructions to some other contractor and not to the respondent No. 8/applicant. The petition is not maintainable against the applicant. The Gawar Construction Company informed the applicant that the remaining bills of the applicant could not be cleared as per the directions passed by this Court. The payment of

₹12.00 crores for the work executed by the applicant has been withheld. The applicant will be unable to carry out the construction work and will suffer the penal consequences. Hence, it was prayed that the order be modified and respondent No.7 be directed to release the payment of the running bill for the work already executed.

4. I have heard Mr K.D. Shridhar, learned Senior Advocate, assisted by Ms. Sneha Bhimta, learned counsel for respondent No.8/applicant, Mr. Abhinav Thakur, learned vice counsel representing Mr. Ajay Kumar Sharma, learned counsel for the petitioner, Mr. Balram Sharma, learned Deputy Solicitor General of India, assisted by Mr. Rajiv Sharma, learned counsel for respondents No.1, 4 and 5, Mr. Lokender Kutlehria, learned Additional Advocate General, for respondents No. 3 to 6 and Mr. Uday Negi, learned counsel for respondent No.7.

5. Mr K.D. Shridhar, learned Senior Counsel for respondent No.8/applicant submitted that the petitioner had made a false averment before the Court. The applicant is not concerned with the construction work being carried out on NH-3 from Talyar to Lagdhar. The Court had stopped the payment of the amount to the applicant/respondent No.8 vide order dated 5.1.2026, and the applicant would suffer hardship due to the order

passed by the Court. It would not be able to clear the payment for the work executed by it and would suffer penalties. Therefore, he prayed that the present application be allowed and the order passed by this Court be modified.

6. Mr Balram Sharma, learned Deputy Solicitor General of India, Mr Lokender Kutlehria, learned Additional Advocate General, for respondents No. 3 to 6, and Mr Uday Negi, learned counsel for respondent No.7, submitted that they have no objection in case the present application is allowed. Mr Abhinav Thakur, learned vice counsel representing the petitioner, wanted to file the reply, but since the order was passed by the Court in CWPII, the request was declined.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. At the outset, it is necessary to notice that this is not a regular bench dealing with the matter but is a Vacation Bench dealing with urgent matters. The record shows that the Hon'ble Principal Division Bench was constrained to pass an order for stopping the payment because the applicant/respondent No. 8 had failed to appear before the Court despite the intimation. This was a

discretion exercised by the Hon'ble Principal Division Bench, which cannot be interfered with by the vacation bench. Moreover, the application is silent regarding the circumstances in which the applicant/respondent No.8 chose to remain absent from the Court despite the service of the notice. Therefore, the main reason for stopping the payment has remained unaddressed. The order could have been modified had any plausible reason been assigned by the applicant/respondent No.8 for the default noticed by the Hon'ble Principal Division Bench and not due to the hardships faced by it. The applicant/respondent No.8 has tried to plead the case on merit; however, this Court is not concerned with the merits because the merit is to be adjudicated by the Hon'ble Principal Division Bench and not by this Bench. Since the applicant/respondent No.8 has not assigned any reason for its absence before the Court despite the service of the notice upon it, there is no reason for the modification of the order passed by the Court. The discretion to stop the payment was exercised by the Hon'ble Principal Division Bench, which has to exercise the discretion to vacate the order. Therefore, in these circumstances, the present application be listed before the Hon'ble Principal Division Bench on the date already fixed.

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List the matters before the Hon'ble Division
Bench on **30.3.2026**, as already fixed.

(Rakesh Kainthla)
Vacation Judge

23rd January, 2026
(Chander)