



**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT SRINAGAR  
(THROUGH VIRTUAL MODE)**

**CJ Court**

**Case: CM No. 2196/2026 in  
LPA No. 64/2026**

**Uploaded on: 07.05.2026**

**U.T. of J&K and ors.**

**.....Appellant(s)/Petitioner(s)**

Through: Mr. Waseem Gul, GA

**Vs**

**M/s Rightway Constructions Company ..... Respondent(s)**

Through:

**Coram: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

**ORDER  
05.05.2026**

**CM No. 2196/2026**

1. This is an application seeking condonation of delay in filing the accompanying appeal against the impugned judgment dated 04.12.2025 rendered by the learned Writ Court in writ petition bearing WP(C) No. 2198/2022.
2. For the reasons set out in the application which is duly supported with an affidavit, the same is allowed. The delay in filing the appeal against the impugned judgment is condoned.
3. Application stands **disposed of**.
4. The main appeal is taken on board.

**LPA No. 64/2026**

1. This intra court appeal is directed against the judgment dated 04.12.2025 rendered by the learned Writ Court in *WP(C) No. 2198/2022* titled, '*M/s Rightway Constructions Company vs. Union Territory of Jammu and Kashmir and Others.*', whereby the learned Writ Court has directed the appellants to release an amount of Rs. 1,47,48,361/- along with interest @6% per annum within a period of six weeks from the date of receipt of copy of the judgment.
2. The judgment (supra) has been assailed by the appellants on the ground that without affording proper opportunity to the appellants to file objections/counter affidavit, the learned Writ Court has allowed the writ petition filed by the respondent, thereby violating the principles of natural justice. It is alleged that the learned Single Judge has erred in law in treating the alleged unpaid amount of Rs. 1,47,48,361/- as an admitted liability whereas in fact only the amount falling strictly within the original sanctioned allotments stood admitted and was already released by the department and the balance claim pertained exclusively to unauthorized and the excess work executed by the respondent without administrative approval, technical sanction or revised estimates and as such, the excess amount could never have been considered as an admitted liability for the purpose of directing the appellants to pay the same to the respondent.
3. Learned counsel for the appellants has reiterated the submissions made in the memo of appeal.
4. Heard learned counsel for the appellants and perused the record.



5. The writ petition came to be filed in the year 2022 and was admitted on 22.11.2024 and thereafter vide order dated 06.11.2025, it was directed that on failure to file counter affidavit by the appellants, their right to file the same shall stand closed. Despite the said order, the appellants did not choose to file counter affidavit, as a result of which, the learned Writ Court in terms of the judgment impugned, directed the appellants to pay an amount of Rs. 1,47,48,361/- along with interest @6% per annum within a period of six weeks from the date of receipt of the copy of the judgment.
6. After examining the record, we find that the respondent herein filed the writ petition for commanding the appellants to pay an amount of Rs. 1,47,48,361/- in lieu of various works executed by him. Record further depicts that vide communication dated 28.11.2015 addressed by appellant No. 4 to appellant No. 3, necessary approval for executing the work beyond allotted amount was sought for an amount of Rs. 1,96,37,242/- which included all the works originally allotted by the appellants and the additional work executed by the respondent. It is worthwhile to mention here that in the communication dated 28.11.2015, it has been mentioned that the additional work was executed at the instance of MLA Sonwar Constituency. Thereafter, in terms of communication dated 14.12.2015 addressed by appellant No. 3 to appellant No. 4, approval was accorded for additional quantum of work for an amount of Rs. 1,12,37,424/-.
7. Record further reveals that legal notice dated 15.05.2022 was served upon appellant No. 2-Chief Engineer, PW(R&B) Department, Kashmir, Srinagar. In response to the said notice, appellant No. 5 informed



appellant No. 3 that the respondent had executed the macadamization work figuring at S. No. 6 of above referred legal notice during the year 2017-18. It was further stated that the part payment was made as per the availability of funds for the works but the remaining amount was yet to be paid to the concerned agency due to non availability of funds. It was also stated that the work done claim for the works executed by the agency had been submitted to the higher authorities in liability statement of the division at S. No. 31 and were verified. It was also mentioned that as soon as, the funds for the said work are placed at the disposal of the Division, the same would be paid to the concerned agency accordingly.

8. The appellants in the memo of appeal have nowhere denied the execution of work and the communications placed on record by the respondent before the learned Writ Court. In the counter affidavit annexed with the memo of appeal but not filed before the learned Writ Court, it has been stated that the amount due to the respondent as per allotment order, has been paid and the excess works have been executed by the respondent bypassing the tendering process which is mandatory requirement for procurement of goods and execution of works. It is stated in the counter affidavit that the claim for excess work is not permissible and has no legal foundation.
9. The respondent has executed the work only at the instance of the appellants and now after the work has been executed and verified, the appellants cannot deny the claim of the respondent only on the ground of



absence of requisite approval, which was to be granted by the appellants only.

10. We have examined the judgment rendered by the learned Writ Court and despite the fact that counter affidavit was not filed by the appellants, the contention of the appellants that the work was executed by the respondent without administrative approval was taken note of by the learned Writ Court but rejected.
11. In view of what has been discussed hereinabove, this Court is of the considered opinion that the learned Writ Court has rightly rendered the judgment impugned in this intra court appeal and we do not find any reason whatsoever to show indulgence. Accordingly, this appeal is found to be misconceived. The same is **dismissed**.

(RAJNESH OSWAL)  
JUDGE

(ARUN PALLI)  
CHIEF JUSTICE

**Jammu**  
05.05.2026  
*Neha-II*

Whether the order is speaking: Yes/No.  
Whether the order is reportable: Yes/No.