

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 11206/2024

Damodar Ropeways And Infra Limited, Through Its Authorized Representative Mr. Deepak Saxena Aged About 60 Years, Residing At 28, Yamuna Path, Shyam Nagar, Jaipur 302019.

-----Petitioner

Versus

1. District Magistrate, Jaipur, Near Collectorate Circle, Banipark, Gopalbari, Jaipur, Rajasthan 302016, India.
2. Mandir Shree Garh Ganesh Ji Trust, Brahmpuri Having Address At Near Gatore Ki Chhatrriya, Brahmpuri, Jaipur Rajasthan-302002 Through Its Trustee Pradeep Acharya.
3. M/s Shivamprime Infraprojects Private Limited, Having Its Office At In The Premises Of Shivam Residency, Plot No. 84, Sindhi Colony Bani Park, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Sanjay Jhanwar, Senior Adv. with Mr. Shubhendra Singh Mr. Saksham Pandey
For Respondent(s)	:	Mr. G.S. Gill, AAG, with Mr. S. P. Singh Rajawat, Mr. Aryan Jagret, for Respondent No.1 Mr. Abhi Goyal, with Ms. Meenal Bhargava, Mr. Hardik Mishra, for Respondent No.2 Mr. Amit Gupta, with Ms. Harshita Bhala, for Respondent No.3

HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

Arguments concluded on	:::	February 26, 2026
Reserved on	:::	February 26, 2026
Pronounced on	:::	March 09, 2026

1. The instant writ petition has been filed by the petitioner under Article 226 of the Constitution of India with the following prayers:-

"a. Issue appropriate writ in the nature of certiorari or any other appropriate writ/order/direction to the effect quashing impugned Order 01.05.2024.

b. Issue writ in the nature of mandamus or any other appropriate writ/order/ direction to declare any license granted to Respondent No. 2 as violate of the provisions of Rajasthan Ropeways Act, 1996 along with all acts/permissions/LOI granted pursuant thereto by any authority be invalid/nullity in the eyes of law.

c. Issue writ in the nature of mandamus or any other appropriate writ/order/direction to the Respondent No.1 to appropriately deal and act on the application filed by the petitioner under Section 6 dated 26.11.2015 (Annexure-1) by adhering to the provisions of the Ropeways Act."

2. Learned counsel for the respondent No. 2 has raised a preliminary objection that the present writ petition is not maintainable as the petitioner is having an alternative efficacious remedy of an appeal under Section 22 of the Rajasthan Ropeways Act, 1996 (for short, 'the Act, 1996') so as to make challenge to the order and action impugned.

3. For consideration of the aforesaid preliminary objection the material facts of the case are as under :-

(a) The petitioner and the respondent No. 2 applied under Section 6 of the Act of 1996 to undertake the necessary preliminary investigation in regard to the proposed ropeway. The respondent No. 2 entered into an agreement with the respondent

No. 3 to undertake construction of the passengers ropeway at Shree Garh Ganesh Temple, Jaipur. Further, the Ministry of Environment, Forest and Climate Change granted the respondent No. 2 the wildlife clearance for the construction of the proposed ropeway at Shree Garh Ganesh Temple, Jaipur and thereafter the respondent No. 2 obtained final / stage-II approval for forest clearance from the Ministry of Environment and Forest. The petitioner being aggrieved by the final approval in favour of the respondent No. 2 raised certain objections before the respondent No. 1. When the respondent No. 1 did not redress the grievances raised by the petitioner in his representation, he preferred S.B. Civil Writ Petition No. 13497/2023 before the Hon'ble High Court, which was disposed of vide order dated 18.03.2024 with the direction to the respondents authorities to decide the representation of the petitioner on its merits after providing an opportunity of hearing to him as well as to the respondents and to pass a reasoned and speaking order. Respondent No. 1 vide its order dated 01.05.2024 has decided the objections raised by the petitioner.

4. The basic grievance raised in the petition by the petitioner is the approval for construction of aerial ropeway at Shree Garh Ganesh Temple, Jaipur in favour of the respondent No. 2 and so also the decision dated 01.05.2024 and observations of the respondents authorities on the representation submitted by him.

5. Learned counsel for the petitioner submits that the statutory remedy of appeal under Section 22 of the Act of 1996 is

only in relation to grant of approval for construction of aerial ropeway but no remedy of appeal is available to the petitioner against the order passed by the respondents authorities on a representation under the directions of the Hon'ble High Court.

6. Learned counsel appearing for the respondents submits that since the petitioner is having an alternative statutory remedy of appeal under Section 22 of the Act of 1996 so as to challenge the order of approval for construction of the aerial ropeway, the present writ petition is not maintainable. Counsel also submits that the order of rejection of the representation has become part of approval and therefore same can also be challenged by filing an appeal under Section 22 of the Act of 1996. Counsel for the respondent no. 2 has also referred the judgment delivered in ***Mehandipur Balaji Ropeway Pvt. Ltd. V/s State of Rajasthan & Ors. (S.B. Civil Writ Petition No. 1547/2022 decided on 01.02.2023).***

7. For consideration of the issue on such preliminary objection, the relevant and material provision is Section 22 of the Act of 1996 which is quoted as under:-

"22. Appeal to and revision by the State Government :
(1) All orders made by the Licensing Authority or the Collector under this Act except those which are made by the Collector under the provisions of the Land Acquisition Act, 1894 (Central Act No. 1 of 1894), shall be appealable within thirty days from the date of order and the appeal shall lie to the State Government.

(2) Any appeal preferred under sub-section (1) shall normally be disposed of by the State Government within three months from the date of receipt of the appeal.

(3) The State Government may, of its own motion, call for and examine the records of any proceedings for the purpose of satisfying itself as to the legality or propriety of any order made under this Act by the Licensing Authority or the Collector not being an award or order made or passed by the collector under the provisions of the Land Acquisition Act, 1894 (Central Act No. 1 of 1894) and if in any case it shall appear to the State Government that any such order should be modified, annulled or revised or remitted for reconsideration, the State Government may, after giving the party to be affected thereby a reasonable opportunity of being heard, pass such order thereon as it may deem fit."

8. The basic prayer made in the petition is to declare the licence granted to respondent No. 2, as violative of provisions of the Act of 1996 and declare all such permissions and LOIs as invalid and nullity. If any person is aggrieved for granting of any licence for construction of aerial ropeway, he has a statutory remedy of an appeal under Section 22 of the Act of 1996. Now, the issue is whether the order dated 01.05.2024 which has been passed by the respondents authorities in view of the order of the Hon'ble High Court can also be put to challenge in an appeal as provided under Section 22 of the Act of 1996 ?

9. The facts which emerge from the pleadings are that the petitioner being aggrieved by the grant of approval / licence in

favour of the respondent No. 2 for construction of the aerial ropeway, submitted certain objections to the authority i.e. District Magistrate which has granted approval / licence to the respondent No. 2. Once the District Magistrate has granted approval / licence / LOI in favour of the respondent No. 2 for construction of aerial ropeway, any decision / order or observations made on any objections / representation submitted by any aggrieved party in regard to grant of approval / licence / LOI for construction of the aerial ropeway, would also be a part of the decision for grant of approval / licence / LOI. In the earlier writ petition preferred by the petitioner, he has submitted before the Court that representation filed by him has not been decided and the Court considering this fact directed the respondent authority to decide the representation of the petitioner by passing a reasoned and speaking order and the respondent authority decided the representation of the petitioner by a reasoned a speaking order dated 01.05.2024.

10. By the order dated 01.05.2024 the respondent authority i.e. District Magistrate, who is competent to issue approval / licence / LOI for construction of the aerial ropeway, has made observations in regard to the objections submitted by the petitioner. These objections submitted by the petitioner pertain to the eligibility / credential of a party who can seek approval / licence / LOI for construction of the ropeway. Any authority who is competent to issue licence always takes a decision for issuance of approval / licence / LOI after considering all material facts including the eligibility and other required criteria after scrutiny of

the application forms of the applicants. Hence, both- taking decisions for grant of approval / licence / LOI and making observations on the objections submitted by any aggrieved party, are the part of decision of issuing approval / licence / LOI. Section 22 of the Act of 1996 provides that an appeal can be preferred against any order under the Act. The said section starts with " All orders made by the Licensing Authority or the Collector under this Act." The order dated 01.05.2024 has been passed by the Licensing Authority i.e. District Magistrate on the objections as regards the issuance of licence / approval / LOI. Hence, in the opinion of this Court, the order dated 01.05.2024 is also said to be passed by the District Magistrate under the Act of 1996 and therefore, same can be put to challenge by filing an appeal under Section 22 of the Act of 1996.

11. The Coordinate Bench of this Court in ***Mehandipur Balaji Ropeway Pvt. Ltd. V/s State of Rajasthan & Ors.*** (*supra*) quoted as under:-

"Ms. Sheetal Mirdha, AAG appearing on behalf of the respondents opposed the writ petition and submitted that the writ petition filed on behalf of the petitioner is pre-mature as the licence in favour of the respondent NO.7 has not yet been issued by the District Magistrate as provided under Section 10 of the Act of 1996. Counsel further submits that even after grant of licence in favour of either petitioner or in favour of respondent No.7, the person aggrieved has a remedy of filing appeal/revision under Section 22 of the Act of 1996 and prayed for dismissal of the writ petition.

Heard counsel for the parties and perused the record.

This writ petition filed by the petitioner deserves to be dismissed for the reasons, firstly, a perusal of the order dated 29.12.2021 shows that only recommendation has been made in favour of the respondent No.7 by the Committee and no licence has yet been granted by the District Magistrate either in favour of the petitioner or in favour of the respondent No.7, thus in my considered view, the writ petition is pre-mature; secondly, although the petitioner has levelled the allegations of mala fides, however, no person by name has been impleaded as party respondent in the present writ petition; thirdly, in the event of issuance of licence either in favour of the petitioner or in favour of the respondent No.7, the aggrieved party can very well file appeal before the Appellate Authority and revision before the State Government under Section 22 of the Act of 1996; and lastly, in the facts and circumstances of the present case, I am not inclined to exercise the jurisdiction of this Court under Article 226 of the Constitution of India."

The view of this Court is supported by the aforesaid order.

12. In view of the discussions made above, the preliminary objection raised by the respondent No. 2 that the petitioner is having an alternative statutory remedy of an appeal so as to challenge the order dated 01.05.2024 deserves to be sustained and accordingly sustained.

13. This Court holds that so as to challenge the order dated 01.05.2024 passed by the District Magistrate and the action of District Magistrate of grant of approval / licence / LOI in favour of the respondent No. 2 for construction of aerial ropeway, could be

put to challenge by the petitioner by filing an appeal under Section 22 of the Act of 1996.

14. On the issue of entertaining a writ petition under Article 226 of the Constitution of India in a situation where there exists an alternative statutory remedy, as a settled principal of law, the following principles have been summarized by the Courts:-

" (i) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

(ii) Exceptions to the rule of alternate remedy arise where

(a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;

(b) there has been a violation of the principles of natural justice;

(c) the order or proceedings are wholly without jurisdiction; or

(d) the vires of a legislation is challenged;

(iii) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

(iv) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the

Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion. "

15. In case of **Whirlpool Corporation V/s Registrar of Trademarks, Mumbai, (1998) 8 SCC 1**, the Hon'ble Apex Court has held as under:-

"Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. "

16. The Hon'ble Apex Court in the case of **Leelavathi N. And Ors. Vs. The state of Karnataka and Ors. Etc. [(Civil Appeal No(s) of 2025) Arising out of SLP (Civil) No(s). 27984-27988 of 2023] decided on 16.10.2025** has observed as under:-

"36. A careful perusal of the aforesaid judgments leads us to the conclusion that where an efficacious alternate remedy is available, the High Court should

not entertain a writ petition under Article 226 of the Constitution of India in matters falling squarely within the domain of the Tribunals.

37. Nevertheless, a writ petition under Article 226 may be still be maintainable notwithstanding the existence of such an alternative remedy in exceptional circumstances, including the enforcement of fundamental rights guaranteed under Part III of the Constitution; instances of ultra vires or illegal exercise of power by a statutory authority; violation of the principles of natural justice; or where the vires of the parent legislation itself is under challenge. While these exceptions have been carved out and reiterated by this Court in a catena of decisions, the facts of the present case do not fall within any of these exceptions so as to warrant the maintainability of the writ petitions before the High Court. "

17. Since the petitioner is having an alternative statutory remedy of an appeal, he may approach the Appellate Authority as regards his grievances and to challenge the order dated 01.05.2024 passed by the District Magistrate by filing an appeal before the Appellate Authority under Section 22 of the Act of 1996.

18. In case the petitioner prefers an appeal within fifteen days from today, same be treated as to be filed within limitation period.

19. Thus, the instant writ petition accordingly stands disposed of as above.

20. In view of the order passed in the main petition, the stay application and pending application/s, if any, also stand disposed of and interim orders, if any, also stands vacated.

(GANESH RAM MEENA),J

SHRUTI SHARMA