

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP(C) 1332/2024
CM(3639/2024)**

M/S Malik And Co. & Anr.

...Petitioner(s)

Through: Mr. Adil Asimi, Advocate.

Vs.

Union Territory of J&K and Others.

...Respondent(s)

Through: Mr. Mubashir Majid Malik, Dy. AG.

CORAM:

Hon'ble Mr. Justice Mohd. Yousuf Wani, Judge.

ORDER

07.03.2025

01. Through the medium of the instant writ petition filed under the provisions of Article 226 of the Constitution of India, the petitioners have sought the issuance of writs/directions in the nature of mandamus, for commanding the respondents to release in their favour an amount of Rs. 1,39,84,269/- along with 13% GST and interest at the prevalent bank, rate from the due date of payment of the said amount till the date of actual payment of the same, on account of admitted liability against execution of construction works at Swasth Bhawan, Bemina, Srinagar".

02. The case of the petitioners in nutshell is that, they are "A Class" contractors/approved firm with Registration No. CE (RandB) K/28/Acy class civil 1985-86 dated 1st April, 2022, dealing in construction works, thus, are entitled to invoke the jurisdiction of this Court for protection of their legal and constitutional rights.

That the respondents assigned the job of execution of construction works to them at Swasth Bhawan, Bemina, Srinagar on 21st March, 2020 and they as per the instructions and in accordance with the demand of respondents, executed the said work of construction i.e. *“Building completion and roofed finishing work of auditorium progress walling and earth filling completed”*;

That the respondents also inspected the said work, which was executed/completed by them well within time, in the month of May, 2020;

That the final/running account bills checked and prepared by the Senior Manager of the respondents under the official seal and signature, were forwarded to the respondent No.6 for release of admitted payment of Rs.19,81,00,000/- together with the measurement books of Swasth Bhawan Bemina, Srinagar;

That they at the failure of the respondent board to release the admitted liability, were constrained to serve a number of representations upon the respondent board;

That after receiving the representations, the respondents prepared the work done estimate and also prepared the bill for an amount of Rs. 19,81,00,000/-, out of which an amount of Rs. 15,22,00,000/- was shown to have been paid and received by the petitioners and Rs.1,39,84,269/- (Plus 13%

GST) was found to be the balance payable to them;

That the said bill was duly authenticated by the concerned officials of the Respondent-board;

That the respondent board assured them that the admitted liability of Rs. 1,39,84,269/- would be released in their favour immediately after the availability of the funds and in this regard the respondent No.6 issued various letters to the respondent Nos. 2 to 5 and submitted the name of work(s) as also work done amount and requested for release of pending payments for the work of construction above mentioned;

That, it is well settled proposition of law that the Government should own its legal obligation arising out of a contract and should not drive a citizen to file a suit for recovery of the amount. In a democratic society governed by the rule of law, it is the duty of the State to do what is fair and just to the citizens and the State should not seek to defeat the legitimate claim of the citizens by adopting a legalistic attitude;

That since the petitioners have executed and completed the work in question to the satisfaction of the respondent board, therefore, the later is obliged under law to make the payment of the entire outstanding amount in their favour;

That they have obtained loans from various financial institutions and, till date, are not able to liquidate the same, as the respondents illegally withheld their earned amounts;

That inspite of having confirmed and acknowledged the fact of the subject work having been done, the respondents have failed to make the full and final payment in this regard;

That the conduct of the respondents has not only resulted in recurring monetary losses of the petitioners, but has also created mental agony to them, as they have availed loan facility from the bank for completion of the subject work for which they are paying interest towards the bank;

That the respondents have failed to make any effective response to the requests of the petitioners except that they are communicating *inter se* and simply assuring & making them believe that a demand liability statement has already been forwarded to the Respondents/higher authorities for arrangement/ release of funds;

03. Heard the learned counsel for the petitioners, who *inter alia* submitted that since the respondents have admitted the liability of an amount of Rs. 1,39,84,269/- as being due to the petitioners on account of execution of subject work, therefore, the instant writ petition can be disposed of at this threshold stage with the direction for release of outstanding admitted liability with 13% GST along

with interest at the prevalent bank rates, from the date the said amount is payable to the petitioners until final payment of the same.

04. Learned counsel for the petitioners during the course of arguments also submitted that various Coordinate Benches of this Court have under similar circumstances, disposed of the matters at the threshold stage by issuing appropriate directions to save the previous time of the Court.

05. I have perused the instant petition and the copies of the documents enclosed with the same as annexures thereto.

06. In the backdrop of the facts and circumstances of the case, this Court is of the opinion that it may meet the ends of justice in case the instant petition is disposed of at this stage by passing appropriate directions, which are otherwise meant to be obeyed under law.

07. Accordingly, the instant writ petition is disposed of with the direction to the respondents to release the balance admitted liability due to the petitioners on account of execution of subject work i.e. *“Building completion and roofed finishing work of auditorium progress walling and earth filling completed”* along with admissible GST and interest, strictly in accordance with the governing rules and regulations, within a period of eight weeks from the date a copy of this order is served upon them.

08. Writ petition ***disposed*** of along with connected CM.

(Mohd. Yousuf Wani)
Judge

SRINAGAR:

07.03.2025

“HAMID”