

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 2570/2022
CM(6498/2022)

NAJEEM HAFIZ
S/O HABIBULLAH MATOO
R/O LAL MANDI, SRINAGAR, AGE 47 YEARS

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

Through: Mr. Adil Asimi, Advocate

Vs.

01. UNION TERRITORY OF JAMMU AND KASHMIR THROUGH COMMISSIONER/SECRETARY TO GOVT. PWD (R&B) DEPARTMENT, SRINAGAR.
02. CHIEF ENGINEER, PWD (R&B) DEPARTMENT, KASHMIR, SRINAGAR
03. SUPERINTENDING ENGINEER, PWD (R&B) CIRCLE, SRINAGAR/BUDGAM
04. EXECUTIVE ENGINEER, R&B CONSTRUCTION DIVISION-II, SRINAGAR

...Respondent(s)

Through: Mr. Mohd Younis, GA vice
Mr. A.R Malik, Sr. AAG

CORAM:
HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE.

ORDER
16.07.2025

1. At the request of learned counsel for the petitioner, the case is taken up out of turn.
2. The record reveals that the instant petition is pending before this Court since November, 2022. This Court vide order dated 13.09.2024 had granted last and final opportunity to the respondents to file reply, and in spite of availing last and final opportunity, reply was not filed and by virtue of order dated 22.11.2024, four weeks further time was given to the respondents to file reply, which till date has not been filed.
3. Thus, an inference can be drawn that the respondents are not interested in contesting the instant petition, as they have chosen not to file the reply.

4. Mr. Adil Asimi, learned counsel appearing on behalf of the petitioner has drawn the attention of this Court to a communication dated 18.10.2022, which is by way of reply to the legal notice issued by the petitioner, wherein, the respondent No. 4 has admitted that the work done costs of both the works is 34.96 Lakhs out of which Rs. 27,26,363/- has already been paid to the agency (petitioner herein) under proper head of account and in so far as the remaining amount is concerned, that till date has not been paid due to the non-availability of the funds.
5. From a bare perusal of the aforesaid communication, where the respondents have admitted the liability of the petitioner, it has come to fore that the unpaid work done claims for the works executed by the petitioner has already been reflected by the respondents in the liability list, which has already been submitted to higher authorities for the release of the balance unpaid amount vide communication dated 17.11.2020, and in spite of the issue being raised before the higher authorities, the funds till date have not been released for the said works.
6. The issue is pending before the respondents and till date the balance liability to the tune of Rs. 7,71,988/- has not been released in favour of the petitioner.
7. Mr. Mohd Younis, learned Government Advocate, when confronted with regard to the aforesaid communication has nothing to say otherwise.
8. Heard learned counsel for the parties and perused the record.
9. Since the respondents have chosen not to file any reply and the record reveals that the respondents have admitted the liability of the petitioner, this Court in the peculiar facts and circumstances of the case, deems it proper to dispose of the writ petition at this stage. The stand taken by the respondents in the communication dated 18.10.2022, that the payment could not be released due to non-availability of the funds under the relevant head, the same should not be a

stumbling block for the respondents for not releasing the payment in favour of the petitioner for the work, which he has already done in pursuance to the valid allotment order and has completed all the codal formalities.

10. Thus, there is no justifiable reason not to release the payment in favour of the petitioner for the work executed by him and a duty is cast upon the respondents to release the admitted amount in favour of the petitioner.
11. Accordingly, in the aforesaid backdrop and keeping in view the admitted stand of the respondents, the instant petition is allowed. The respondents 2 to 4 are directed to release the admitted amount to the tune of Rs. 7,71,988/- in favour of the petitioner within six weeks from today, subject to completion of all the codal formalities.
12. It is made clear that in case, the amount is not released within the aforesaid period, the petitioner will be entitled to interest at the rate of 6% from the date, the amount was payable and denied by the respondents.
13. The writ petition stands **disposed of** in the manner as indicated above.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:

16.07.2025

"Adil Ismail"