

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

**WP(C) No.69/2022
CM No.198/2022**

**Reserved on: 02.04.2026
Pronounced on:08.04.2026
Uploaded on:-08.04.2026.**

*Whether the operative part or
full judgment is pronounced: Yes*

Kirpal Singh (66 yrs)
S/O Sh. Chaggar Singh
R/O Village Kana Chargal (Mela),
Jammu

.....Petitioner

Through :- Mr. R.K Gupta, Sr. Adv., with
Mr. Udhay Bhaskar, Adv.

V/S

1. **Govt. of Jammu and Kashmir,**
Department of Disaster Management, Relief
Rehabilitation and Reconstruction,
Civil Secretariat, Jammu.
2. Union Territory of J&K
through Commissioner Secretary,
Public Works (R&B), Department,
Civil Secretariat, Jammu.
3. Chief Engineer,
Public Works (R&B) Department,
Jammu.
4. Superintendent Engineer, PWD(R&B)
Jammu-Kathua Circle, Jammu.
5. Executive Engineer,
Public Works Department (R&B),
Construction Division-II, Jammu.
6. District Development Commissioner,
Jammu.

.....Respondent(s)

Through :- Ms. Jagmeet Kour, Adv., vice
Mr. Raman Sharma, AAG for R-1.
Ms. Pallavi Sharma, Adv., vice
Mr. Ravinder Gupta, AAG for R-2 to 5.
Ms. Nazia Fazal, Adv., vice
Ms. Monika Kohli, Sr. AAG for R-6.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. Petitioner claiming to be registered as 'A' Class contractor asserts that he was allotted a contract for the restoration of damaged Sidhra-Surinsar-Mansar

Road from 6 km to 21 km with approach road to Surinsar Lake with an estimated cost of an amount of ₹25.50 lakhs and for construction of the road 2 km from Kana Chargal to Mela at an estimated cost of ₹4.50 lakh by the respondent-PW(R&B) Construction Division-II, Jammu in September 2014.

2. Petitioner has further pleaded that after allotment of the contract, the petitioner deployed his men and machinery at the site and commenced the work on war footing and completed the same within a short span of less than two months; that on completion of the allotted restoration work, the District Development Commissioner, Jammu vide his communication dated 11.08.2015 submitted the information to Divisional Commissioner, Jammu, about the restoration of the damaged roads by the agency to whom the said work had been allotted; that the respondent No.5-Executive Engineer, Public Works Department requested the respondent No.3-Chief Engineer to get the funds to the tune of ₹25.20 lakh released and placed at the disposal of the concerned office, so that the pending liability may be cleared, however, despite various correspondences and recommendations made by different authorities for the release of funds for meeting out the pending liability, including the amount due and payable to the petitioner, for the aforesaid executed works, neither the funds were released nor the payment was made to the petitioner; and that the petitioner had been made to run from pillar to post for release of the payment of the works executed by him; that the respondents have illegally withheld huge amount of the petitioner for no fault on his part and it was finally prayed that the respondents be directed to make the payment of admitted liability of ₹29.20 lakh along with interest @ 15 % per annum in respect of the works of the respondents-department, executed by the petitioner.

3. The petitioner besides other communications, placed on record a communication of Executive Engineer, PWD(R&B), Construction Division-II, Jammu to the Superintending Engineer, PWD(R&B) Jammu-Kathua Circle, Jammu vide No.15240-44 dated 17.02.2020, wherein it has been admitted that there was pending liability of an amount of ₹25.20 lakhs with regard to restoration of Sidhra-Surinsar-Mansar road from km 6 to km 19 with approach road to Surinsar Lake damaged due to heavy rains/flash floods during September, 2014.

4. Pursuant to notice, the Public Works Department has filed reply stating therein that the petition suffers from the vice of delay and laches, however, the claim of the petitioner with regard to pending liability of ₹25.20 lakhs was not disputed.

5. The respondent No.1-Department of Disaster Management, Relief Rehabilitation and Reconstruction filed counter affidavit asserting therein that SDRF funds are released to the office of the Divisional Commissioners and Deputy Commissioners as per the approval of the State Executive Committee (SEC) of SDRF headed by Chief Secretary, Government of J&K, to meet the requirement under National Disasters as per SDRF guidelines, with norms of assistance issued by MHA, Government of India; that the concerned Divisional Commissioner and Deputy Commissioner are the authorities releasing the funds allotted to them and can clear any liability projected to them under the same, subject to fulfillment of guidelines of SDRF; and that the adequate funds under SDRF have already been released and placed at the disposal of Disaster Management Authorities.

6. Since the District Development Commissioner, Jammu as District Disaster Authority, had to release the funds, as such, vide order dated 31.07.2020⁴ he was made party as respondent No.6 on the submission made by learned senior counsel appearing for the petitioner and the petition was admitted to hearing with a direction to the respondents to file counter affidavit. Despite service of notice, the respondent–Deputy Commissioner, Jammu chose not to file any counter affidavit.

7. Learned senior counsel appearing for the petitioner submits that this is a case where the respondents have not released the admitted claims of the petitioner after execution of the work of restoration of the road having been damaged due to insistent rains in the year 2014; that the petitioner has been made to suffer for the official wrangles as the funds allotted by the Department of Disaster Management, Relief, Rehabilitation and Reconstruction of Government of Jammu and Kashmir, having been released funds in favour of the Divisional Commissioners and the Deputy Commissioners, the same amount has not been released despite reminders by the Public Works Department to release the claims of the petitioner; and that the petitioner had been suffering for the last more than 11 years for non receipt of the amount that was due to him and prayed that the respondents be directed to release the amount in favour of the petitioner at the earliest along with interest @ 15 % per annum for withholding the amount, for such a pretty long time.

8. Learned counsel for the respondents, particularly, respondents No.2 to 5 who was executing agency under whose work orders the petitioner had carried out the restoration work, argued that the petitioner had approached the Court after a long time and as such, this petition suffers from delay and laches so as to

recover an amount within the period of limitation. It has been argued that the Public Works Department could not release the funds as funds were not placed at their disposal by the Disaster Management Authority, under whose direction, the work had been carried out and that as and when the funds are released by the Disaster Management Authority, the same shall be released to satisfy the claims of the petitioner.

9. Having heard learned counsel for the parties and after consideration of the matter, it comes out that the petitioner as a contractor had carried out the allotted restoration work; and that he was made some part payment by the Executing Department, except an amount of ₹25.20 lakhs is pending liability towards the works of restoration of Sidhra-Surinsar-Mansar road km 6 to km 19 with approach road to Surinsar Lake, damaged due to heavy rains/flash floods during September, 2014 as per the communication No. 15240-44 dated 17.02.2020 addressed by Executive Engineer PWD(R&B) Construction Division-II, Jammu to the concerned Superintending Engineer, Jammu Kathua Circle. This communication has given a liability statement showing that an amount of ₹25.20 lakhs is payable to the petitioner-contractor, Kirpal Singh under SDRF.

10. The contention of learned counsel for the Public Works Department that the petitioner cannot maintain this petition as the same suffers from delay and laches is simply not sustainable for the reason that the claim of the petitioner is a recurring cause of action, in view of the communication made by the Public Works Department to the Disaster Management Authority for releasing of the funds in favour of the PWD so as to meet the pending liability to the contractors including the petitioner. This Court understands that sometimes the release of payments can be delayed or deferred for lack of funds, however, it is a serious

matter that the admitted claim of the petitioner, even after the communication dated 17.02.2020 has not been attended to and the petitioner has been suffering for non-payment of his claim for more than a decade, having completed the allotted work in the year 2015.

11. Since an amount of ₹ 25.20 lakhs is an admitted claim of the petitioner as per the correspondence of the respondents-PWD, thus, in the considered opinion of the Court, the petitioner has made out a case for grant of this petition, for release of his admitted claim.

12. Viewed thus, this petition is allowed with the following directions, to the respondents:-

- I. The respondent No.6-District Development Commissioner, Jammu who is also a Disaster Management Authority for Jammu District is directed to release the funds to the tune of ₹ 25.20 lacs from SDRF at his disposal in favour of respondent No.5-Executive Engineer, PWD(R&B), Construction Division-II, Jammu within a period of four weeks from this date.
- II. The respondent No.5- Executive Engineer, PWD(R&B), Construction Division-II, Jammu is further directed that, in the event of release of funds by the respondent No.6 in his favour, the payment shall be made to the petitioner within a period of four weeks, on fulfilling the codal formalities.
- III. If the admitted claim of the petitioner is not made within the aforesaid period of eight weeks, he shall be entitled to recover the same along

with simple interest @ 10 % per annum, from the date of completion of the work, till its realization.

13. The petition stands disposed of along with connected application(s) on the above terms.

(M A Chowdhary)
Judge

JAMMU
08.04.2026
Surinder

Whether the order is speaking: Yes
Whether the order is reportable: Yes

