

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

Uploaded 12.08.2026

WP(C) No. 1585/2023(O&M)

Abdul Rashid Malik

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

Through: Mr. Arshad Hussain, Adv.
Mr. Rahoof Khan, Adv.

vs

U. T. of J&K and others

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG with
Ms. Sagira Jaffer, Adv.
Ms. Pallvi Sharma, Adv. vice
Mr. Ravinder Gupta, AAG

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER
10.08.2026

1. The petitioner has filed the present petition for directing the respondents to release admitted pending amount of ₹28.932/- lacs for the work of restoration of roads, executed by him in the year 2014 & 2019 duly authenticated by the Tehsildar Chassana/Mahore.
2. It is stated by the petitioner that he approached respondent No. 2 for release of pending amount, but the same has not been released till date, despite the fact that respondent No. 5 vide communication dated 26.04.2023 has admitted petitioner's entitlement to the above mentioned amount. The petitioner further claims to have submitted the representation dated 15.05.2023 but the same has not been decided by the respondents.

3. Respondent Nos. 3 and 5 have filed the response, stating therein that neither any agreement was executed between the petitioner and the then Executive Engineer, PWD (R&B), Special Sub-Division Mahore nor there was any administrative approval, technical sanction or tendering process regarding the works allegedly executed by the petitioner. Therefore, the present petition is liable to be dismissed. The petitioner has a remedy of filing civil suit against the respondents. It is further stated by the respondents that the present petition has been filed after about 9/4 years, as such, the same is hopelessly time barred. As per available record, the details of works executed were submitted to Chief Planning Officer, Reasi and further, the details of all the works executed by the contractor/petitioner with remarks against each work were submitted to the Additional District Development Commissioner, Reasi by the respondent No. 5 vide communication dated 04.08.2023. It is also urged that the said works came to be executed on the verbal instructions by the District Administration in view of the emergent situation, by the contractor and the said work was executed during the period between years 2014 and 2019 under the State Disaster Response Fund (SDRF). The claim of the petitioner was put up in SDRF meeting held on 13.11.2023 and in the said meeting, it was informed to the Committee members that the works have been executed departmentally without following any codal formalities i.e. accord of administrative approval, technical sanction and tendering process. Moreover, the Tehsildar Chassana in his report informed the Committee that no such types of incidents like rainfall/cloud burst/flash floods are mentioned in the records of concerned Police Station/Chowki. Accordingly, the Committee decided to reject

SDRF claims of the contractor/petitioner at S. Nos. 1, 3, 4, 5, 8, 10, 11, 14, 15, 16, 19, 21 and 23 on the report submitted by the Executive Engineer, PWD(R&B) Division Mahore and Tehsildar Chassana and the works at Sr. Nos. 2, 6, 7, 9, 12, 13, 17, 18, 20 and 22 were rejected by the Committee since these were not covered under the SDRF norms. Further the claim of the petitioner came to be rejected by respondent No. 2 vide his communication dated 14.11.2021.

4. The right of other respondents to file response was closed in terms of order dated 15.09.2025. However, respondent Nos. 1, 2, & 4 in terms of an application have placed on record the minutes of the meeting held on 13.11.2023 and signed on 14.11.2023, whereby the claim of the petitioner was rejected.
5. Learned counsel for the petitioner has vehemently argued that the petitioner had undertaken and executed the works entrusted to him by the respondents during the years 2014 and 2019, but despite completion of the works, the legitimate and admitted dues payable to the petitioner have not been released by the respondents. Learned counsel submits that the petitioner has repeatedly approached the concerned authorities for release of the outstanding amount and has also submitted representation. However, despite such requests, no effective action has been taken by the respondents, nor has any cogent reason been communicated to the petitioner for withholding the payment.
6. On the other hand, learned counsel for the respondents submits that neither any agreement was executed between the petitioner and the then Executive Engineer, PWD(R&B), Special Sub-Division Mahore, nor there was any

administrative approval, technical sanction or tendering process. He has further argued that the present petition has been filed after a delay of about of 9/4 years, as such, the same is hopelessly time barred.

7. Heard learned counsel for the parties and perused the record.
8. The first contention raised by the respondents is that the instant writ petition has been filed belatedly. However, vide communication dated 26.04.2023 addressed by respondent No. 5 to respondent No. 4 i.e. the Chief Planning Officer, Reasi, states that the petitioner has executed the works during the year 2014 and 2019 under SDRF and the detailed estimates were duly authenticated by the Tehsildar Mahore/Chassana for an amount of ₹28.932/-. The respondents have not at all denied the said communication. Rather the Executing Department in its response has admitted that the work was executed by the petitioner, but the codal formalities were not followed.
9. So far as the contention of the respondents with regard to the applicability of doctrine of delay and *laches* in the present petition is concerned, it needs to be noted that the execution of the work has been admitted by the respondents, though they have subsequently rejected the claim of the petitioner in terms of SDRF meeting held on 13.11.2023 allegedly on the basis of the report obtained from the SHO Police Station Chassana dated 10.11.2023. This clearly shows that the respondents have not at all denied the execution of the works by the petitioner, but have rather admitted the same. If the works were executed by the petitioner in connivance with the officials of the respondents, then what steps have been taken by them against their officials. It has become routine for the Government to deny the

legitimate claims of contractors by raising false and mis-conceived pleas. This is a classic case, where the claim has been rejected on the basis of report of Tehsildar, who, in turn, had obtained a report regarding the rainfall/landslides from the Police, whereas in the communication dated 26.04.2023 it is specifically mentioned that the works have been authenticated by Tehsildar concerned.

10. This Court in **Rattan Singh Parmar vs. Union Territory of J&K and others, 2025:JKLHC-JMU-444**, has already considered the issue of delay and *laches* in approaching the court for redressal of the grievances by the contractor and has observed in paras 9, 10, 12, 13 and 14 as under:

“09. The only issue that requires consideration is as to whether the respondents can take plea of delay and laches to object the claim of the petitioner, once they are admitting that the balance amount of Rs. 22.74 lacs is payable to the petitioner.

10. India is a welfare State and is 5th largest economy of the world. The Government, in order to develop infrastructure to ease the life of the residents of this country, has been collaborating with the private sector. A Contractor may be a man of means or a small contractor, who executes the work, often after borrowing loan from Financial Institutions, with a hope that the amount due to him would be released in his favour after the completion of work or as per the terms and conditions of agreement. The delay in releasing payment for one reason or another for the work carried out by the small contractor often puts the small contractor in financial doldrums and may result into bankruptcy bringing the contractor and his family to the brink of starvation and vagrancy. The Government must put in place the mechanism in place so that the situation that has arisen in this case does not arise in future.

11.....

12. In terms of Article 300-A of the Constitution of India, no person can be deprived of his property save by authority of law. When a contractor executes work to the satisfaction of the Government, more particularly when there is admission on the part of the respondent with regard to the completion of the work by the petitioner, non-payment of the same cannot be denied only on the ground that the petition has been filed after an inordinate delay.

13. In **Madras Port Trust v. Hymanshu International**, the Hon’ble Supreme Court has held as follows:

“2. We do not think that this is a fit case where we should proceed to determine whether the claim of the respondent was barred by Section 110 of the Madras Port Trust Act (II of 1905).

The plea of limitation based on this section is one which the court always looks upon with disfavor and it is unfortunate that a public authority like the Port Trust should, in all morality and justice, take up such a plea to defeat a just claim of the citizen. It is high time that governments and public authorities adopt the practice of not relying upon technical pleas for the purpose of defeating legitimate claims of citizens and do what is fair and just to the citizens. **Of course, if a government or a public authority takes up a technical plea, the Court has to decide it and if the plea is well-founded, it has to be upheld by the court, but what we feel is that such a plea should not ordinarily be taken up by a government or a public authority, unless of course the claim is not well-founded and by reason of delay in filing it, the evidence for the purpose of resisting such a claim has become unavailable.** Here, it is obvious that the claim of the respondent was a just claim supported as it was by the recommendation of the Assistant Collector of Customs and hence in the exercise of our discretion under Article 136 of the Constitution, we do not see any reason why we should proceed to hear this appeal and adjudicate upon the plea of the appellant based on Section 110 of the Madras Port Trust Act (II of 1905).

3. We accordingly revoke the special leave granted to the appellant, and direct that the appellant do pay the cost of the respondents.”
(emphasis added)

14. In **Vidya Devi v. State of H.P.**¹, Hon’ble Supreme Court of India has held under:

“12.12. The contention advanced by the State of delay and laches of the appellant in moving the Court is also liable to be rejected. Delay and laches cannot be raised in a case of a continuing cause of action, or if the circumstances shock the judicial conscience of the Court. Condonation of delay is a matter of judicial discretion, which must be exercised judiciously and reasonably in the facts and circumstances of a case. It will depend upon the breach of fundamental rights, and the remedy claimed, and when and how the delay arose. There is no period of limitation prescribed for the courts to exercise their constitutional jurisdiction to do substantial justice.

11. Thus, in that view of the matter, the respondents being the welfare State cannot raise the plea of delay and *laches*, particularly when the execution of the work has been admitted by the respondents. Insofar as the minutes of

the meeting dated 13.11.2023 relied upon by the respondents in rejecting the SDRF claim of the petitioner, it needs to be noted that the report of Tehsildar based on information obtained from the SHO Police Station, Chassana has only been used as a camouflage to deny the justified claim of the petitioner. The list of the works executed by the petitioner appended with the communication dated 04.08.2023, clearly demonstrates that the works were executed and the estimates were duly sent by the officials of the PWD(R&B) Department. The contention of the respondents that the codal formalities were not followed by the petitioner is misconceived.

12. This Division Bench of this Court in **LPA No. 137/2020 titled, Union Territory of J&K and others vs. Sanjeev Kumar**, decided on 23.02.2021 has held as under:

“09. The enquiry reports mentioned above on which the appellants seek to place reliance today was never placed before the writ Court and was not a part of the writ Court record. Even the objections filed by the Planning Department as also the J&K Housing Board do not suggest that there was any apprehension in the mind of the Planning Department or the Housing Board with regard to the manner in which the contracts stood allotted to the petitioner/respondent herein. **While it may be true that certain codal formalities might not have been followed before the allotment of the contract in favour of the respondent herein, yet the Government as also the Housing Board permitted not only the allotment of contract but also its completion at the relevant point of time.**

10. **The petitioner who was allotted the contract by the Housing Board cannot be expected to first verify as to whether the contract that has been allotted to him was being executed within the territorial jurisdiction of the Housing Board or not, nor was he expected to refuse the execution of the work simply because the subject matter of the work was not put to open tendering system. Needless to say that the contractor did execute the works upon being allotted to him for which some amount is certainly due to him.**

(emphasis added)

13. The decision taken by the Committee in its meeting dated 13.11.2023 to reject the claim of the petitioner is not justified.
14. For all what has been said, analysed and discussed hereinabove, the present petition is **disposed of** by directing respondent Nos. 1 and 2 to release the requisite payment in favour of the petitioner for the works mentioned at Serial Nos. 1, 3, 4, 5, 8, 10, 11, 14, 15, 16, 19, 21 and 23 and respondent Nos. 1, 4 and 5 are directed to release the payment regarding the works mentioned at Serial Nos. 2, 6, 7, 9, 12, 13, 17, 18, 20 and 22 of the minutes of the meeting dated 14.11.2023 within a period of three months from the receipt of this order, failing which, the petitioner shall be entitled to interest at the rate of 6% per annum from the date of filing of this petition.

(RAJNESH OSWAL)
JUDGE

Jammu
10.08.2026
Rakesh PS

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