

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case No. WP(C) No. 1489/2021

Reserved on: 10.03.2026
Pronounced on: 30.03.2026
Uploaded on: 01.04.2026

Whether the operative part of
or full judgment is pronounced: **Full**

Rattan Paul Padha
S/o Sh. Balwant Raj
R/o Dharamsal Kalakote, District Rajouri

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

Through :- Mr. Rajesh Bhushan, Advocate.

Vs

1. Union Territory of Jammu and Kashmir
Through Principal Secretary, Housing
and Urban Development Department,
Civil Secretariat, Jammu.
2. Director Urban Local Bodies, Near
Jodhamal School, Lane No. 4 Adarsh
Vihar, Deeli, Jammu.
3. Executive Engineer, Local Bodies
Division-I Gole Market, Gandhi Nagar,
Jammu.

.....Respondent(s)

Through :- Mr. Suneel Malhotra, GA.

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

JUDGMENT

1. Through the medium of the instant petition, the petitioner has sought the following reliefs:-

“Writ of Mandamus directing the respondents to release an amount of Rs. 50,96,950/- (Rupees Fifty Lakh Ninety Six Thousand Nine Hundred Fifty), which is an admitted liability for carrying out the work of construction of alternate road for

decongestion of main bazaar traffic by way of construction of R-wall at RD 160 to 200 and RD 425-625 (Total aggregate length 260 Mtr.) Parapets 8 Nos 0.60 x 0.60 Mtr culverts for drainage and side drains including allied work at Sunderbani.”

2. Respondent No. 2, vide Notice Inviting Tender (NIT) No. 11-LBJ-1 of 2016-17 dated 02.11.2016, invited applications for carrying out the work namely construction of an alternate road for decongestion of main bazaar traffic by way of construction of R-wall at RD 160 to 200 and RD 425-625 (Total aggregate length 260 Mtr), parapets, 8 Nos 0.60 x 0.60 Mtr culverts for drainage and side drains including allied work at Sunderbani. The total value of the work was Rs. 64.44 Lacs.
3. The petitioner, being eligible to apply for the said NIT, applied for the same. A copy of the certificate of registration of petitioner as an A-Class contractor issued in Form-II and renewed till date has been enclosed with the petition.
4. It is the specific case of the petitioner that he has completed the work which was allocated to him vide allotment letter dated 07.12.2016 in conformity with the terms and conditions mentioned in the said communication and other conditions communicated to the petitioner from time to time.
5. It is the specific case of the petitioner that he has incurred huge amount of Rs. 63,00,700 (Rupees Sixty-three lacs seven hundred) on completion of the aforesaid work allotted to him, which is evident from a bare perusal of communication dated 07.12.2016. The details of the expenditure incurred by the petitioner have also been enclosed along with the instant petition.

6. It is worth mentioning that the work was started way back on 23.12.2016 and was completed by the petitioner in terms of the conditions specified in the communication dated 07.12.2016 to the complete satisfaction of the respondent-authorities.
7. The petitioner being the L-1 and having participated in the e-NIT, was granted allotment in his favour by virtue of allotment order dated 07.12.2016. Since the aforesaid amount, despite the admitted liability, was not released by the respondents, the petitioner made repeated requests to them. In response thereof, respondent No. 3, vide communication dated 17.07.2018, addressed to respondent No. 2, requesting him to release an amount of Rs. 62.83 lacs, so that the pending liability of the petitioner could be cleared. The petitioner, in order to fortify his claim, has placed the aforesaid communication on record.
8. It has been vehemently argued by learned counsel for the petitioner that despite the amount being admitted, the respondents have not released the same in his favour till date and have only released a part payment to the tune of Rs. 13.27 lacs out of the admitted liability to the tune of Rs. 62.83 lacs.
9. It has also been argued that after completion of the work assigned to the petitioner, requisite bills were also submitted to the respondents for release of the balance amount to the tune of Rs. 50,96,898/-, which amount, despite the admitted liability is still pending with the respondents. The petitioner was also constrained to issue a legal notice dated 27.01.2021 in this regard, but despite receipt of the same, the needful has not been done even though the work had been completed in conformity with the allotment letter dated 07.12.2016.

10. Learned counsel for the petitioner with a view to advance his case has drawn the attention of the Court to the communication dated 18.02.2020 issued by the Executive Engineer, Urban Local Bodies, Division Jammu, a perusal whereof reveals that the work executed by the petitioner has been duly verified by the concerned Executive Engineer and that a completion certificate has also been issued in this regard. Thus, according to the learned counsel, there is no impediment which comes in way of the respondents to release the aforesaid amount in favour of the petitioner, particularly when part payment has already been released out of the work allotted to him.
11. ***Per contra***, the reply stands filed on behalf of the respondents. The respondents have taken a preliminary objection that the claim projected by the petitioner can only be adjudicated by a Civil Court after leaving evidence, and therefore the petitioner cannot maintain the instant petition and the same deserves to be dismissed.
12. A specific stand has also been taken by the respondents that though the allotment order dated 07.12.2016 was issued in favour of the petitioner, the same was subject to the condition that the contractor/petitioner was required to execute an agreement with the official respondents and would remain personally responsible not to exceed the work beyond the allotted amount and also for any contravention of any specifications of the material used.
13. The respondents have further taken a specific stand that although the work in question was taken up by the petitioner on the directions of the

Deputy Commissioner, Rajouri, the same was undertaken without the approval of the Administrative Department.

14. The respondents, while filing the reply affidavit, have also admitted that the claim raised by the petitioner pertains to the work executed on a revised DPR without approval of the competent authority and since there was a deviation from the original contract, payment cannot be released to the contractor if the contractor has not executed the work strictly in terms of the e-NIT and the allotment order, as per the applicable rules.
15. It has also been pleaded that since the contractor was under a legal obligation to execute the work strictly as per the terms and conditions of the e-NIT and the allotment order, any deviation therefrom and excess payment, if any, would disentitle him from claiming the payment for the said work. Accordingly, a prayer has been made that the writ petition deserves dismissal. In addition, the Finance Department has already issued guidelines/modalities vide circular dated 26.04.2021 for strict adherence by all departments regarding release of past liabilities in respect of works and in case of any violation, action can be initiated against the concerned officers.
16. Lastly, it has been submitted by learned counsel for the respondents that this Court lacks inherent jurisdiction to entertain the instant writ petition in view of the efficacious remedy available to the petitioner to file a recovery suit.

Legal Analysis:

17. Having heard learned counsel for the parties at length and upon perusal of the record, this Court finds that the liability of the respondents towards

the petitioner to the extent of Rs. 50,96,950/- is not in dispute. Once liability is admitted and the State continues to enjoy the fruits of the work executed by the petitioner, it cannot be permitted to turn around and deny payment without any justifiable reason. Besides, the state cannot retain payment when part payment has already been done. The liability in the present case is in the nature of a recurring liability. The work has been executed, utilized and the benefits continue to accrue to the respondents. In such cases, the cause of action is a continuing one and every day of non-payment constitutes a fresh infraction of the petitioner's rights. The State and its instrumentalities are expected to act fairly and reasonably, particularly, in matters relating to payment of legitimate dues of contractors, who have executed public works.

- 18.** Despite the petitioner having been duly allotted the contract as the L-1 bidder pursuant to the e-NIT, the respondents failed to release the outstanding amount. The record further reveals that the petitioner made repeated representations seeking disbursement of the pending dues. Significantly, these requests were not only persistent but were also acknowledged by the respondent authorities themselves. In this regard, Respondent No. 3, vide communication dated 17.07.2018 addressed to Respondent No. 2, requesting the release of an amount of Rs.62.83 lakhs for the purpose of clearing the petitioner's pending liability. However, despite such acknowledgment at the departmental level, no consequential action was undertaken by the respondents to discharge the admitted liability. The inaction on part of the respondents to release the outstanding liability in light of the admitted stand, therefore, reflects arbitrariness and administrative apathy on part of the

respondents. The relevant aforesaid communication for reference is reproduced hereunder:

“The above noted work was allotted by the then Director Urban Local Bodies, Jammu vide allotment No. DULBJ/2016/10399-10403 dated: 7.12.2016 under UIDSSMT. The contractor has now submitted claim as 2nd C.C for an amount of Rs. 62.83 lacs. You are as such requested to release an amount of Rs. 62.83 lacs so that the pending liability of the contractor can be cleared.”

19. This Court in the similar facts and circumstances has already dealt with a similar issue in case titled, ***“M/s Saint Soldier Engineer and Contractor Pvt. Ltd. Vs. U.T. of J&K and Others”***, WP(C) No. 2472/2022, decided on 26.09.2025, wherein it has been held that once, the liability of the Government towards a contractor stands admitted, the respondents cannot indefinitely withhold the payment on the ground of administrative or procedural constraints and the admitted dues are required to be released within a reasonable time. The ratio laid down in the aforesaid judgment squarely applies to the facts of the present case. It was held as under:

“17. What emerges from the record is that the liability is admitted by the respondents themselves. Once liability is admitted, the only question that remains is with respect to delay in release of payment. Such delay, in the opinion of this Court, requires to be enquired into so that responsibility can be fixed upon the officers concerned. If contractors are compelled to knock at the doors of the Court day in and day out for release of legitimate dues, the fault lies not with the petitioner but with the respondents.

20. It is well settled that execution of work gives rise to a corresponding obligation upon the State to honour its financial commitments. Any administrative approval or availability of funds is a matter to be ensured by the

department prior to the allotment of work. After the execution of the contract, no “post facto” objection can be raised to deny or delay payment.”

20. Therefore, this Court cannot remain a passive onlooker where admitted dues are unjustifiably withheld under the guise of administrative delays or financial constraints. On numerous occasions, this court has been compelled to intervene in matters where contractors, having fulfilled their contractual obligations are denied timely release of their dues by government departments. The State and its instrumentalities, despite enjoying the benefit of completed works, unjustifiably withhold payment for years together, thereby compelling the contractors to litigate. Such unnecessary litigation clogs the docket of constitutional courts, drains public resources and erodes the confidence of citizens in the fairness of State action. This systemic malaise demands judicial correction and policy direction.
21. Article 14 of the Constitution of India guarantees equality before the law and equal protection of the laws. Over time, its jurisprudence has evolved well beyond the notion of mere formal equality to embody a substantive guarantee against arbitrariness. It is now firmly settled that every State action, whether legislative, executive or arising out of contractual dealings must conform to the standards of fairness, reasonableness and non-arbitrariness.
22. The Government, while entering into contracts or dealing with contractors does not divest itself of its constitutional obligations. Unlike a private party, the State is expected to act as a model litigant, adhering to

standards of fairness and reasonableness. Once the liability stands admitted, particularly where the work has been duly executed, measured and certified, any unjustified withholding of payment constitutes arbitrary State action and is clearly violative of Article 14 of the Constitution.

23. This Court is of the considered view that such conduct on part of the Government is wholly arbitrary and unfair. The State, as a model litigant is expected to act fairly and reasonably. Where the delay in releasing payments is attributable to the State and there is no legal impediment or contractual dispute, the Government must explain the cause of such delay. Each day's delay in the release of payment must be justified. In the absence of any cogent explanation, the Government would be liable to compensate the petitioner by way of interest for the period of delay. Additionally, it may also be held accountable for the financial hardship and mental distress occasioned to the petitioner as a result of such unjustified conduct. The doctrine of fairness does not countenance a situation where the State continues to enjoy the benefits of the executed work while simultaneously denying the contractor his legitimate dues. The State, therefore, cannot have a 'win-win' situation.
24. The legal position regarding the payment of dues for contractual work executed is well-settled by the Hon'ble Supreme Court in several authoritative pronouncements. These judgments collectively underscore the imperative that "*contractual payments must not be unduly delayed or withheld by the State without valid reasons.*"

25. As held by the Hon'ble Supreme Court in **Ramakrishna Construction Co. v. Union of India, (2010) 3 SCC 579**, it is a settled proposition that once work has been executed and the liability is admitted, the State cannot arbitrarily withhold payment.
26. Similarly, in **Surya Constructions v. State of U.P., (1986) 3 SCC 247**, the Hon'ble Supreme Court observed that *"courts can exercise writ jurisdiction under Article 226 of the Constitution in cases where admitted contractual dues are withheld without justification."*
27. The Hon'ble Supreme Court of India has consistently held that the State, notwithstanding its sovereign character, is equally bound by its contractual obligations. It cannot claim immunity where its actions are arbitrary, unfair, or mala fide in the discharge of such obligations. In such circumstances, the State is amenable to judicial scrutiny and can be held accountable through appropriate intervention by the courts. In particular, the writ jurisdiction under Article 226 of the Constitution plays a crucial role in enforcing these obligations, especially in cases where the conduct of the State discloses manifest arbitrariness or an unjustified withholding of legitimate dues.
28. The objection raised by the respondents that the petitioner ought to have first approached the civil court for redressal of his grievances is also without merit. The jurisdiction of a civil court is ordinarily invoked where there exists a disputed question of fact regarding the rights and liabilities of the parties arising out of a contract. In the present case, however, the respondents themselves have acknowledged the execution of the work as

well as the liability arising therefrom and the amount payable to the petitioner is not shown to be the subject matter of any genuine dispute. In such circumstances, relegating the petitioner to a civil suit would serve no useful purpose, as the petitioner would merely be compelled to institute prolonged litigation for recovery of an amount which the respondents themselves do not dispute. Where the liability of the State stands admitted and the grievance of the petitioner pertains only to the withholding of payment, the matter assumes the character of arbitrary State action, thereby justifying the invocation of the writ jurisdiction of this Court rather than relegating the petitioner to the ordinary remedy of a civil suit.

- 29.** In view of the aforesaid facts and circumstances, the present petition is ***allowed*** and the respondents are directed to consider the case of the petitioner for the release of the balance admitted amount of Rs. 50,96,950/- (Rupees Fifty Lakh Ninety Six Thousand Nine Hundred Fifty only) for the work executed, namely, construction of an alternate road for decongestion of main bazaar traffic by way of construction of R-wall at RD 160 to 200 and RD 425–625 (aggregate length 260 meters), parapets (08 Nos.), 0.60 × 0.60 meter culverts for drainage and side drains including allied works at Sunderbani, in case, if there is no legal impediment.
- 30.** The aforesaid exercise shall be carried out within a period of six weeks from the date a certified copy of this order is made available to the respondent No.3.

31. It is made clear that in case, the amount is not released within the stipulated period, the petitioner shall be entitled to interest at the rate of 6% per annum from the date the amount became due till its realization.
32. Thus, in light of what has been discussed hereinabove coupled with settled legal position, the writ petition preferred by the petitioner is ***disposed of*** in the manner indicated above alongwith all connected applications.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
30.03.2026
Mihul

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