

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

CM(M) No. 119/2023

*Reserved on: 15.07.2026
Pronounced on: 30.07.2026
Uploaded on: 30.07.2026
Whether the operative part
or full judgment is pronounced: Full*

Ram Krishan age 61 years
S/o Late Tirath Ram
Sarpanch, Panchayat Halqa Potha,
R/o Village Potha, Block Dhangri,
District Rajouri

.....Petitioner

Through: Mr. Anil Sethi, Advocate

Vs

Netar Parkash
S/o Shri Mulk Raj
R/o Potha Garwala
Tehsil and District Rajouri

.....Respondent(s)

Through: Mr. Muzzaffar Ali Shah, Advocate with
Mr. Sayed Majid Shah, Advocate

**Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE
JUDGMENT**

PRAYER:-

1. Through the medium of the present petition filed under Article 227 of the Constitution of India, the petitioner has called in question order dated 10.06.2023 passed by the learned Additional District and Sessions Judge, Rajouri in Appeal No.659/2023 titled "*Ram Krishan and others vs. Netar Parkash*". The petitioner has also challenged Award dated 01.05.2023 passed by the Authority under the Payment of Wages Act (Assistant Labour Commissioner), Rajouri in File No.28/Pyt./2022 titled "*Netar Parkash vs. Ram*

Krishan and others", whereby the petitioner was directed to pay an amount of Rs. 4,64,646/-.

BRIEF FACTS:-

2. The case set up by the petitioner is that he is an elected Sarpanch of Panchayat Halqa Potha, Tehsil and District Rajouri and, during his tenure, various developmental works entrusted by the Rural Development Department were executed under his supervision. It is pleaded that all the labourers engaged for execution of the aforesaid works were paid their wages through online mode and no amount remained due or payable towards any labourer.

3. According to the petitioner, respondent instituted proceedings before the Assistant Labour Commissioner, Rajouri under the provisions of the Payment of Wages Act, 1936 alleging non-payment of wages in respect of labourers engaged in the execution of the developmental works. It is the specific case of the petitioner that although the wages had already been disbursed through online mode, the Authority, without conducting a proper enquiry and without affording him adequate opportunity to place on record the material substantiating such payments, proceeded to pass Award dated 01.05.2023 directing the petitioner to pay an amount of Rs. 4,64,646/-.

4. It is further pleaded that the petitioner had specifically requested the Authority to verify the payments by calling the concerned labourers and examining the official record pertaining to online disbursement of wages. However, according to the petitioner, no such exercise was undertaken. The petitioner further asserts that some of

the persons whose statements were purportedly recorded before the Authority subsequently swore affidavits stating that they had never made such statements and further asserted that the petitioner was not even holding the office of Sarpanch during the year 2017-18 when part of the alleged claim is stated to have arisen. According to the petitioner, these material aspects were completely ignored by the Authority while passing the impugned Award.

5. Feeling aggrieved by the aforesaid Award, the petitioner preferred a statutory appeal before the learned Additional District and Sessions Judge, Rajouri under Section 17 of the Payment of Wages Act, 1936. Vide order dated 25.05.2023, the operation of the Award came to be stayed. However, on the next date of hearing, i.e., 10.06.2023, the learned appellate Court directed the petitioner to comply with the mandatory requirement by depositing the amount payable under the Award in terms of Section 17(1-A) of the Payment of Wages Act.

6. Instead of complying with the aforesaid direction, the petitioner has filed the present petition invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India, seeking quashment of the Award dated 01.05.2023 as well as the order dated 10.06.2023 passed by the learned appellate Court.

ARGUMENTS ON BEHALF OF PETITIONER:-

7. Learned counsel for the petitioner submits that the impugned Award as well as the order passed by the learned appellate Court are legally unsustainable as the petitioner had already discharged the liability towards the labourers by making payments through online mode. It is contended that the Authority failed to conduct a

fair and proper enquiry, did not afford the petitioner adequate opportunity of hearing or of producing the material substantiating the online payments, and proceeded to pass the Award without properly appreciating the defence set up by the petitioner.

8. It is further submitted that the affidavits subsequently executed by certain witnesses, coupled with the fact that the petitioner was not holding the office of Sarpanch during part of the relevant period, completely demolish the foundation of the Award. It is, accordingly, urged that the impugned Award dated 01.05.2023 and the order dated 10.06.2023 passed by the learned appellate Court deserve to be set aside.

AARGUMENTS ON BEHALF OF RESPONDENT:-

9. *Per contra*, learned counsel appearing for respondent has filed objections resisting the present petition. At the outset, it is contended that the petition itself is not maintainable as the petitioner had an efficacious statutory remedy under Section 17 of the Payment of Wages Act, 1936, which, in fact, he had already availed by preferring an appeal before the learned Additional District and Sessions Judge, Rajouri. It is submitted that the petitioner, however, failed to comply with the mandatory requirement envisaged under Section 17(1-A) of the Act, which mandates that the memorandum of appeal shall be accompanied by a certificate issued by the Authority to the effect that the appellant had deposited the amount payable under the direction appealed against. According to the respondent, despite having been directed by the appellate Court to comply with the aforesaid statutory requirement, the petitioner failed to do so and instead invoked the

supervisory jurisdiction of this Court under Article 227 of the Constitution of India with a view to circumvent the statutory mandate.

10. Learned counsel for the respondent further submits that the jurisdiction of this Court under Article 227 of the Constitution of India is supervisory in nature and is to be exercised sparingly, only to keep the subordinate Courts and Tribunals within the bounds of their authority or where there is manifest perversity or patent lack of jurisdiction. It is contended that the Authority under the Payment of Wages Act exercised the jurisdiction vested in it by law and passed the Award after conducting due proceedings and, therefore, no case warranting interference in exercise of supervisory jurisdiction is made out.

11. It is further submitted that even otherwise the petitioner has failed to establish that the wages in question had actually been paid. According to the respondent, despite repeatedly asserting that payments had been released through online mode, the petitioner failed to produce any documentary material either before the Authority, before the appellate Court or even before this Court substantiating such payments. On the contrary, it is submitted that the respondent led oral as well as documentary evidence before the Authority and the enquiry conducted by the Assistant Labour Commissioner, including the reports furnished by the concerned Panchayat officials, supported the case of the respondent that the wages had remained unpaid. It is also contended that the Panchayat Secretary had specifically reported that although the bills had been prepared and FTOs had been

generated, the petitioner repeatedly cancelled the same, thereby preventing release of wages to the labourers.

12. Learned counsel for the respondent further submits that during the pendency of the present petition, the statutory appeal preferred by the petitioner also came to be dismissed vide order dated 31.07.2023. It is, therefore, contended that the petitioner cannot invoke the supervisory jurisdiction of this Court under Article 227 of the Constitution of India merely to overcome the consequences of his failure to pursue the statutory remedy in accordance with law.

13. It is also submitted that the allegations levelled by the petitioner against the Assistant Labour Commissioner as well as the learned Additional District and Sessions Judge are wholly misconceived and without any basis. According to the respondent, adequate opportunity was afforded to the petitioner during the proceedings before the Authority, however, he neither produced any evidence in support of his defence nor rebutted the evidence adduced by the respondent. It is also submitted that the affidavits relied upon by the petitioner were procured from the labourers under threat and coercion and, therefore, cannot dislodge the findings recorded by the Authority. It is, accordingly, prayed that the present petition, being devoid of merit, be dismissed.

14. Learned counsel for the respondent further submits that neither the Award dated 01.05.2023 nor the order passed by the learned appellate Court suffers from any jurisdictional error, patent illegality or perversity warranting interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

LEGAL ANALYSIS:-

15. Heard learned counsel for the parties and perused the record.

16. Before advertng to the merits of the controversy, it would be appropriate to examine the preliminary objection raised by respondent with regard to the maintainability of the present petition. The record reveals that the petitioner, being aggrieved of the Award dated 01.05.2023 passed by the Authority under the Payment of Wages Act, 1936, had admittedly availed the statutory remedy of appeal under Section 17 of the said Act by preferring an appeal before the learned Additional District and Sessions Judge, Rajouri. The appellate Court, vide order dated 25.05.2023, stayed the operation of the Award and thereafter, vide order dated 10.06.2023, directed the petitioner to comply with the mandatory requirement contained in Section 17(1-A) of the Act.

17. Since the controversy in the present case primarily turns upon the interpretation and effect of Section 17(1-A) of the Payment of Wages Act, 1936, the said provision is reproduced as under:

“17(1-A). No appeal under clause (a) of sub-section (1) shall lie unless the memorandum of appeal is accompanied by a certificate by the Authority to the effect that the appellant has deposited the amount payable under the direction appealed against.”

18. A plain reading of the aforesaid provision leaves no manner of doubt that an appeal against an order directing payment of wages or compensation cannot be entertained unless the memorandum of appeal is accompanied by a certificate issued by the Authority certifying that the appellant has deposited the amount payable under the direction appealed against. The requirement is framed in

mandatory terms and constitutes a condition precedent for the entertainment of an appeal under Section 17 of the Act.

19. In the present case, despite having invoked the statutory appellate remedy, the petitioner admittedly failed to comply with the aforesaid statutory requirement, notwithstanding the specific direction issued by the learned appellate Court vide order dated 10.06.2023. Instead of complying with the said direction and pursuing the appeal in accordance with law, the petitioner chose to invoke the supervisory jurisdiction of this Court under Article 227 of the Constitution of India challenging not only the order dated 10.06.2023 but also the Award dated 01.05.2023. Such a course of action, in the considered opinion of this Court, amounts to an attempt to circumvent the statutory mandate contained in Section 17(1-A) of the Act.

20. It is well settled that where the legislature has prescribed a particular procedure and imposed conditions for availing a statutory remedy, the same must ordinarily be complied with. A litigant who has consciously availed a statutory remedy cannot be permitted to bypass the mandatory conditions attached thereto and simultaneously invoke the supervisory jurisdiction of this Court merely because compliance with such conditions is inconvenient or has not been effected. The extraordinary jurisdiction under Article 227 is intended to ensure that subordinate Courts and Tribunals act within the bounds of their authority and is not meant to enable a litigant to avoid or defeat the statutory requirements governing the remedy already availed by him.

21. The legal position in this regard is no longer *res integra*. This Court, while considering the scope and effect of Section 17(1-A) of the Payment of Wages Act, 1936, in **“Barket Ali v. Divisional Manager, SFC Division”, WP(C) No. 2021/2022, decided on 10.10.2025**, observed as under:

“23. It is trite law that when a special enactment excludes the application of the general law by necessary implication, the Court cannot import provisions of the general law merely on equitable considerations. The Payment of Wages Act, being a beneficial and self-contained legislation, prescribes not only the manner and mode of appeal but also the conditions precedent for its maintainability, including the mandatory requirement under Section 17(1A) of furnishing a certificate of deposit of the amount payable under the direction appealed against. This requirement is not directory but mandatory in nature, as it seeks to protect the rights of the workman and ensure that the employer does not frustrate the benefit of the award by filing dilatory appeals.”

22. The aforesaid exposition of law squarely governs the controversy involved in the present case. Admittedly, the petitioner had availed the statutory remedy of appeal under Section 17 of the Payment of Wages Act, 1936. The learned appellate Court, while dealing with the appeal, specifically directed the petitioner to comply with the mandatory requirement under Section 17(1-A) of the Act. However, instead of complying with the said statutory mandate and prosecuting the appeal in accordance with law, the petitioner invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. Such a course is clearly impermissible, as it would amount to allowing a litigant to bypass the statutory condition precedent prescribed by the legislature for maintaining an appeal.

23. It is equally well settled that the jurisdiction of this Court under Article 227 of the Constitution is supervisory and not appellate. The scope of such jurisdiction has repeatedly been explained by the Hon'ble Supreme Court.

24. The scope and ambit of the supervisory jurisdiction of this Court under Article 227 of the Constitution is also no longer *res integra*. In '**M/s Garment Craft v. Prakash Chand Goel**', (2022) 4 **SCC 181**, the Hon'ble Supreme Court observed as under:

“18. ... The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to....”

25. Tested on the touchstone of the aforesaid principles, this Court does not find any jurisdictional error, patent illegality or perversity in the impugned Award or in the order passed by the learned appellate Court warranting interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. The submissions advanced by the petitioner essentially seek re-appreciation of the evidence considered by the Authority, which is impermissible while exercising supervisory jurisdiction.

26. In the present case, this Court does not find that the Authority under the Payment of Wages Act exercised jurisdiction not vested in it by law or failed to exercise the jurisdiction so vested. Likewise, no material has been placed on record to demonstrate that the learned appellate Court committed any jurisdictional error while directing the petitioner to comply with the mandatory requirement of Section 17(1-A) of the Act. On the contrary, the order dated 10.06.2023 merely required the petitioner to satisfy the statutory condition precedent for maintaining the appeal.

27. The submissions advanced by the petitioner with regard to payment of wages through online mode, alleged inadequacy of enquiry, appreciation of evidence, or the affidavits relied upon by him pertain essentially to disputed questions of fact touching upon the merits of the Award. Once the petitioner failed to pursue the statutory remedy in the manner prescribed by law, this Court, in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, would not be justified in undertaking an examination of such disputed factual issues, particularly in the absence of any jurisdictional error or patent perversity in the proceedings conducted by the Authority.

28. Viewed thus, this Court is of the considered opinion that the petitioner, having failed to comply with the mandatory requirement contained in Section 17(1-A) of the Payment of Wages Act, 1936 despite being specifically directed by the learned appellate Court, cannot be permitted to bypass the statutory mandate by invoking the supervisory jurisdiction of this Court under Article 227 of the

Constitution of India. No ground warranting interference with the impugned Award dated 01.05.2023 or the order dated 10.06.2023 passed by the learned Additional District and Sessions Judge, Rajouri is, therefore, made out.

29. For the foregoing reasons, finding no merit in the present petition, which is utterly misconceived and devoid of any merit, the same is, accordingly, dismissed along with all connected applications, if any. Interim directions, if any, shall also stand vacated.

30. Registry to return the record to the concerned.

Jammu
30.07.2026
Nikhil

(Wasim Sadiq Nargal)
Judge

