

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 553/2023

Reserved on: 14.05.2026
Pronounced on: 20.05.2026
Uploaded on: 21.05.2026

Operative part or full Judgement: **Full**

Abdul Majid Bhat (64 Yrs.)
S/O Ghulam Mohi-u-Din Bhat
R/O Rangil, Ganderbal

...Petitioner(s)

Through:

Mr. Lone Altaf, Advocate

Vs.

1. Government of J&K through
Commissioner/Secretary,
Jal Shakti Department,
Civil Secretariat, Srinagar/Jammu.

2. Chief Engineer,
Jal Shakti, (PHE) Department,
Kashmir, Rajbagh Srinagar.

3. Executive Engineer,
Rangil Water Supply (R.W.S)
Division, Srinagar/Ganderbal.

4. Assistant Executive Engineer,
Rangil Water Supply (R.W.S),
Division, Srinagar/Ganderbal.

...Respondent(s)

Through:

Mr. Jehangir Ahmad Dar, GA

CORAM:

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

JUDGEMENT

01. The petitioner, a registered contractor of the respondents' department, has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India, seeking quashment of Order No. 88/JSD/ESTT. of 2025 dated 22.05.2025 and Order No. 89/JSD/Estt. of 2025 dated 22.05.2025 whereby the petitioner

has been blacklisted/debarred for a period of two years and his claim for release of outstanding dues has been rejected.

02. Petitioner, through the medium of this petition pleads that the impugned orders are *ex facie* illegal, arbitrary and violative of the principles of natural justice. It is contended that the order of blacklisting/debarment has been passed without issuance of any prior show cause notice and without affording an opportunity of hearing to the petitioner, despite Rule 11 of the J&K Registration of Contractors Rules, 1991 mandating issuance of notice before blacklisting; that blacklisting has severe civil consequences affecting the petitioner's livelihood and right to carry on trade guaranteed under Article 19(1)(g) of the Constitution of India and, therefore, strict adherence to principles of natural justice was mandatory; that the respondents themselves allotted additional work to the petitioner, which clearly establishes that the work under the original contract had been satisfactorily executed; that the respondents have passed the impugned orders only with a view to evade legitimate financial liability towards the petitioner after the petitioner approached this Court.

03. Respondents, in their reply submitted that the petitioner was initially allotted the subject work for an amount of Rs. 70,29,807/- vide allotment order dated 28.09.2017 and subsequently augmented by an additional component of Rs. 16,91,768/-, bringing the total project cost to Rs. 87,21,575/-. The respondents maintain that Rs.60,28,772/- has already been disbursed for the work executed to date. They contend that the

petitioner's further claims, exceed the permissible limits prescribed under Government Order No. 49-JK(JSD) of 2021 dated 25.02.2021 and cannot be processed without a revised Technical Sanction (TS) and Administrative Approval (AA) from the competent authority.

04. Furthermore, the respondents assert that the petitioner failed to complete the work within the stipulated timeframe, which hindered the functioning of the Water Supply Scheme and caused significant public inconvenience. Due to this delay, the Department was forced to deploy water tankers as an alternative arrangement, resulting in an avoidable financial burden on the State Exchequer. It was also noted that a Physical Verification Committee has been constituted to assess the work performed; however, their final report is currently pending.
05. It is further contended that the petitioner unlawfully obstructed operation of the Water Treatment Plant by locking the premises, thereby disrupting supply of drinking water to the general public and causing huge financial loss to the State Exchequer; that two show cause notices were issued to the petitioner prior to passing of the impugned order and despite service of notices, the petitioner failed to respond, compelling the respondent-department to proceed further in public interest.
06. Learned counsel for the petitioner, while reiterating the grounds urged in the writ petition, argued that the impugned orders have been passed in complete disregard to the mandate of Rule 11 of the J&K Registration of Contractors Rules, 1991 and in violation

of settled principles of natural justice. It is submitted that no effective opportunity of hearing was afforded to the petitioner before inflicting the drastic consequence of blacklisting and debarring him from future contracts. Learned counsel further argued that the respondents, after having accepted and utilized the work executed by the petitioner and having released substantial payment thereagainst, cannot arbitrarily withhold the remaining admitted dues by raising hyper-technical objections. It is further contended that the action of the respondents is mala fide and intended only to frustrate the legitimate claim of the petitioner pending before this Court.

07. Learned counsel appearing for the respondents, on the other hand, submitted that the impugned orders are reasoned orders passed after due consideration of the material on record and after issuance of show cause notices to the petitioner. It is, thus, contended that the action of blacklisting and rejection of claim is justified in the facts and circumstances of the case and warranted no interference by this Court in exercise of writ jurisdiction. Learned counsel further submitted that the petitioner had failed to complete the allotted work within the stipulated timeframe and had also undertaken certain works without approval and codal sanction from the competent authority. It is argued that the petitioner not only violated the terms and conditions of the allotment order but also obstructed the functioning of the Water Treatment Plant, thereby adversely affecting supply of drinking water to the general public. He further argued that Clause (v) of

the main agreement provided that the work was to be completed within five months from the expiry of 15 days from the date of allotment and that the additional work allotted, though without technical sanction and administrative approval, was also required to be completed within five days from the date of allotment. However, the petitioner delayed the execution of the work, which had commenced in the year 2017, and has failed to complete the same for handing over to the respondent-department for public use. It is contended that, in view of the delay in execution of the work, the petitioner, besides being blacklisted and debarred, was also liable to be penalized at the rate of 10%. He further submitted that the petitioner had already been paid an amount of Rs.60,28,772/- whereas he has still laid a claim for an additional amount of Rs.19,84,000/-. It is submitted that the department had constituted a Verification Committee, which submitted its report, pursuant where to the respondent-department formulated a bill for an amount of Rs.10.00 lakhs proposed to be processed for payment to the petitioner, but the petitioner did not agree to the same and contended that the new norms could not be applied to him; that the petitioner, under a self-help action, locked the entire premises of the Reservoir/Plant and did not permit the respondent-department to enter the complex.

08. The Government counsel lastly argued that the allotted project is yet to be completed; and that the petitioner had approached this Court with unclean hands by invoking the writ jurisdiction of this Court despite the matter involving disputed questions of facts. He

further argued that, under the provisions of the Commercial Courts Act, the work allotted to the petitioner falls within the ambit of a “commercial dispute” as defined under Section 2(1)(c)(vi) of the Commercial Courts Act, 2015, for which forums have also been notified in terms of Government Notification S.O. No. 47 dated 04.02.2020. He also highlighted that the respondent-department had to incur expenditure of more than Rs.11.00 lakhs towards supplying potable drinking water to the residents, who were expected to benefit from the completion of the project allotted to the petitioner, which he delayed and has not completed till date.

09. Heard learned counsel for the parties at length, perused the pleadings on record, considered the rival submissions and examined the original record produced by learned counsel for the respondents.
10. Briefly stated, the case of the petitioner is that pursuant to e-NIT No. 01/PHED/RWSD-Civil/SHG of 2017-18 relating to construction of Filter House and Back Wash Tank for 0.5 MGD R.S.F Plant at Rangil for WSS Rakhi Zakoora (D/S), the petitioner was allotted the work vide Allotment Order No. RWSD/115 of 2017-18 dated 28.09.2017 for an amount of Rs. 70,29,807/-. It is pleaded that during execution of the allotted work, the respondents further entrusted additional work to the petitioner amounting to Rs. 16,91,768/-, thereby taking the total contractual value to Rs. 87,21,574/-. A supplementary agreement was also executed between the parties; that he completed the

allotted work within time and to the satisfaction of the department. However, despite execution of the work, the respondents released only an amount of approximately Rs. 60 lakhs and withheld the balance amount of Rs. 27 lakhs along with CDR/security deposits.

11. Aggrieved thereof, the petitioner initially filed the present writ petition seeking release of the outstanding amount with interest. During pendency of the proceedings, the respondents filed objections alleging that the petitioner had failed to complete the work and had undertaken unauthorized works *dehors* the contract. During consideration of the record, the impugned orders dated 22.05.2025 surfaced, whereafter, liberty was granted to the petitioner to challenge the same by way of amendment. In this backdrop, petitioner had amended the writ petition, challenging the impugned orders passed on 22.05.2025.
12. The following questions arise for consideration:
- (i) Whether the impugned order of blacklisting/debarment has been passed in violation of principles of natural justice?
 - (ii) Whether the respondents were justified in rejecting the petitioner's claim for release of outstanding dues?
 - (iii) Whether the impugned orders can withstand judicial scrutiny under Article 226 of the Constitution of India?
13. Blacklisting of a contractor has serious civil and economic consequences. Such action not only deprives a person from participating in future tenders but also adversely affects his reputation, business prospects and livelihood. The law regarding blacklisting is no longer *res integra*. In *Erusian Equipment &*

- Chemicals Ltd. v. State of West Bengal*, (1975) 1 SCC 70, the Hon'ble Supreme Court held that blacklisting casts a stigma and no order of blacklisting can be passed without affording opportunity of hearing to the affected party. Similarly, in *Patel Engineering Ltd. v. Union of India*, (2012) 11 SCC 257, the Apex Court reiterated that though the Government has inherent power to blacklist a contractor, such power must be exercised fairly, reasonably and in consonance with principles of natural justice.
14. Reliance has been placed by the respondents upon the judgments rendered by the Hon'ble Supreme Court in *Patel Engineering Ltd. v. Union of India*, (2012) 11 SCC 257; *Erusian Equipment & Chemicals Ltd. v. State of West Bengal*, (1975) 1 SCC 70; and *B.S.N. Joshi & Sons Ltd. v. Nair Coal Services Ltd.*, (2006) 11 SCC 548, to contend that the State possesses inherent power to blacklist contractors in public interest.
15. Rule 11 of the J&K Registration of Contractors Rules, 1991 specifically provides that before suspending or blacklisting a contractor, the competent authority shall serve a notice indicating the grounds and afford an opportunity to show cause.
16. The respondents, in their objections as well as in the personal affidavit filed pursuant to orders of this Court, have stated that two show cause notices were issued to the petitioner before passing the impugned order. However, from the record produced before this Court, it emerges that though notices are stated to have been issued, there is no material demonstrating effective consideration of the petitioner's response or any meaningful

opportunity of personal hearing before inflicting the drastic consequence of blacklisting. A mere issuance of notice without fair consideration of reply and adherence to due process would not satisfy the mandate of natural justice.

17. Furthermore, the impugned order does not record any independent finding regarding the petitioner's explanation, nor does it disclose application of mind to proportionality of punishment. The order, therefore, suffers from procedural infirmity.
18. The respondents have rejected the petitioner's claim primarily on the ground that certain works were executed without codal formalities such as Administrative Approval and Technical Sanction. However, it is not disputed that the petitioner had initially been allotted work by the department and substantial payment has already been released in his favour.
19. The plea of the respondents that the petitioner undertook works without authorization raises disputed questions of fact requiring examination of contractual obligations, measurement books, execution records and technical sanctions. Ordinarily, disputed contractual claims involving adjudication of facts are not amenable to writ jurisdiction. Nonetheless, where arbitrariness or *mala fide* action on the part of the State is alleged, the Court can certainly examine whether administrative action suffers from illegality or procedural impropriety.
20. In the present case, the respondents have withheld dues indefinitely, without proper adjudication, merely by branding the

works as unauthorized. At the same time, this Court is conscious that determination of exact monetary liability would require factual adjudication which may not be feasible in writ proceedings.

21. The respondents have alleged that the petitioner obstructed functioning of the Water Treatment Plant causing disruption of public water supply. Such allegation, if true, is undoubtedly serious in nature. However, no material has been placed before this Court showing registration of any FIR, criminal proceedings or adjudication by any competent authority conclusively establishing the petitioner's culpability. Administrative findings affecting civil rights must rest upon cogent material and cannot be founded merely upon unilateral departmental allegations.
22. For the foregoing reasons, this Court is of the considered opinion that the impugned order of blacklisting/debarment dated 22.05.2025 cannot be sustained in law for non-compliance with mandatory procedural safeguards and violation of principles of natural justice. Consequently, Order No. 88/JSD/ESTT. of 2025 dated 22.05.2025 is set aside. However, liberty is reserved to the respondents to initiate fresh proceedings, strictly in accordance with law, after affording adequate opportunity of hearing to the petitioner.
23. As regards the petitioner's monetary claim with regard to the contract, since the claim has not only been disputed but rejected as well by the respondents on several aspects, therefore, same cannot be decided under writ jurisdiction of this Court.

Contention of the respondents that the petitioner has an efficacious remedy to lay a claim before a civil court having commercial jurisdiction. Section 2(1)(c)(vi) of the Commercial Courts Act, 2015, defines “commercial dispute” to include disputes arising out of construction and infrastructure contracts, including tenders. Therefore, the dispute raised by the petitioner squarely falls within the ambit of a “commercial dispute” under the said Act and is amenable to adjudication before the competent Commercial Court, and not under the extraordinary writ jurisdiction of this court under Article 226 of the Constitution of India.

24. In view of the above, the petitioner shall be at liberty to approach the competent Civil Court/Commercial Court with regard to his claim for release of outstanding dues, which has been rejected by the respondent-department.
25. The writ petition is, accordingly, partially allowed, quashing impugned Order No. Order No. 88/JSD/ESTT. of 2025 dated 22.05.2025, and with a direction to assail impugned Order No. 89/JSD/Estt. of 2025 dated 22.05.2025 before Civil Court having jurisdiction.
26. The record be returned to Mr. Jehangir Ahmad Dar, learned counsel appearing for the respondent-department.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR
20.05.2026
Manzoor