

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) 1148/2026 CM (2996/2026)

**Khazir Mohammad Mir
S/o. Abdul Salam Mir
R/o. Nassrullahpora, Budgam**

**Mehraj-ud-din Khan
S/o. Mukhtar Ahmad Khan
R/o. Sheikhpura Ompora, Budgam**

...Petitioners

Through: Mr. Owais Shafi, Advocate

Vs.

- 1. Union Territory of Jammu and Kashmir through
Commissioner/ Secretary to Govt,
Public Works Department, Civil Secretariat, Srinagar/Jammu**
- 2. Chief Engineer, Public Works Department,
Central Kashmir, Srinagar**
- 3. Superintending Engineer,
Public Works Department, Circle Budgam.**
- 4. Executive Engineer, Mufassil
(Roads and Buildings) Department, Division Budgam**

...Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

30.09.2026

1. Heard the learned counsel for the petitioners in respect of the matter.
2. The case of the petitioners in nutshell is that they are aggrieved of the illegal and arbitrary withholding of admitted amount of Rs. 6,17,000/- [Rupees Six Lakh Seventeen Thousand Only] lawfully due and payable to them on account of execution of two orders duly allotted in their favour. That pursuant to the allotment of the said

work orders, they executed the same strictly in accordance with the terms and conditions stipulated in the NIT's/Orders of allotment to the satisfaction of the respondents.

That despite the admitted execution of the work orders, the respondents, by acts of omission and commission and without any authority of law, have unlawfully withheld the aforesaid amount. That the withholding of the admitted payment is wholly arbitrary, unjustified and violative of their rights. That the respondents in their *inter se* communications and repeated reminders, have unequivocally acknowledged the liability towards them. That the respondent No. 3 vide communication No. SE/BUD/2180-81, dated: 22.11.2023, while referring to the earlier communication pertaining to the matter in issue, requested the respondent No. 2 to arrange/release the admitted payment of Rs. 6,17,000/- so that their claim could be settled.

That similarly vide communication No. EE/Bud/5985-86 dated: 11.08.2023, the respondent No. 4 addressed to the respondent No. 3 requesting that the matter be taken up with the higher authorities for release of funds amounting to Rs. 6,17,000/- so as to settle their claims who were repeatedly pursuing the matter. That furthermore vide communication No. SE/BUD/7644-46, dated: 03.03.2026, the respondent No. 3 addressing to respondent No. 2, while referring to the representations submitted by them, regarding the release of the pending bills, stated that the record pertaining to one of the three works was available whereas the record relating to the remaining

two works was stated to be missing. That however, in the said communication, it was categorically acknowledged that respondent No. 4, had projected the demand for release of payment in respect of all the three works executed by them.

3. The learned counsel for the petitioners during his preliminary arguments submitted that the respondents, despite having admitted the liability towards the petitioners, have continued withholding the amount of Rs. 6,17,000/- and now at a belated stage have sought to justify such non-payment on the ground of non-availability/missing of record pertaining to two out of the three works executed by the petitioners. He further contended that the action of the respondents in withholding the admitted amount of Rs. 6,17,000/- payable to the petitioners, despite completion and handing over of the works in question is *ex facie* illegal, arbitrary, unreasonable and violative of Article 14 and 21 of the Constitution of India. He contended that the respondents, having themselves acknowledged the liability through various *inter se* departmental communications, cannot legally deny or withhold the legitimate dues of the petitioners without any lawful justification. He further contended that the petitioners executed the allotted work strictly in accordance with the terms and conditions, as prescribed in the NIT's as also in the allotment orders and to the complete satisfaction of the respondents and that no objection at any point of time was raised regarding the quality, quantity or execution of the works.

He further contended that the impugned action of the respondents in withholding the admitted payment is arbitrary and suffers from the vice of mala fides in law in as much as the respondents have taken inconsistent and shifting stands from time to time, initially citing non-availability of funds and subsequently pleading missing records in respect of the two works despite the admitted fact that the demand for release of the payment had already been projected by the competent authorities for all the works executed by the petitioners.

He contended that the plea of missing record, as projected by the respondents after an inordinate lapse of several years, cannot be made a ground to defeat the legitimate and admitted claims of the petitioners. That the respondents cannot be permitted to take advantage of their own lapses, negligence or administrative inefficiency, to the detriment of the petitioners, particularly when the execution of the works and corresponding liability, stands admitted in official communications.

He further contended that the withholding of the amount by the respondents is violative of the principles of fairness, reasonableness and non-arbitrariness, which are integral facets of Article 14 of the Constitution of India. That the State and its instrumentalities are expected to act fairly and responsibly in contractual matters and cannot arbitrarily deprive citizens of their lawful dues. He contended that the petitioners had undertaken and executed the works by arranging substantial financial resources, including

availing loans and financial assistance from institutions, with a legitimate expectation that the respondents would release the payments upon completion of the works. That the prolonged and unjustified withholding of the admitted dues has caused grave financial hardship to the petitioners who continue to suffer on account of mounting interest liabilities and financial distress solely attributable to the inaction of the respondents.

He further contended that the respondents being “State” within the meaning of Article 12 of the Constitution of India, are under a constitutional and legal obligation to act in a transparent, fair and non-arbitrary manner. That the impugned action of withholding of the admitted payment, despite repeated representations and acknowledgments of liability, is contrary to the settled principles governing public authorities and is, therefore, liable to be interfered with, by this Court in exercise of its writ jurisdiction.

He submitted that the petitioners have repeatedly approached the respondents through representations, seeking release of the admitted amount and even requested the constitution of a technical team/committee, for verification of the executed works; however, the respondents failed to take any effective steps for redressal of the genuine grievances of the petitioners, thereby compelling them to invoke the extraordinary jurisdiction of this Court. He contended that the respondents cannot be permitted to unjustly enrich themselves by retaining the benefit of works, duly executed by the petitioners while at the same time withholding the lawful

consideration, admittedly payable to them. That the petitioners have fully discharged their contractual obligations to the satisfaction of the respondents and the refusal of the respondents to release the admitted dues without lawful justification is arbitrary and impermissible in law and that such conduct is contrary to the settled principles of equity, fairness and good conscience and is violative of Article 14 of the Constitution of India. He contended that the inaction and omission on the part of the respondents in failing to release the admitted dues of the petitioners is wholly arbitrary, unjustified and unsustainable in the eyes of law.

4. The learned counsel for the petitioners also contended that the matter, in view of its peculiar facts especially having regard to the admission on the part of the respondents regarding the liability towards petitioners, can be disposed of even at this threshold stage by passing of such appropriate orders which are not likely to prejudice the interests of the respondents.
5. Perused the memo of the petition and the copies of the documents enclosed with the same as annexures thereto.
6. The copies of the documents enclosed with the petition and hereinbefore referred to are the *inter se* communications between the respondents which impliedly admit the claim of the petitioners.
7. In the facts and circumstances of the case, this Court, as rightly suggested by the learned counsel for the petitioners, is of the opinion that it may meet the ends of justice in case the matter is disposed of at this threshold stage by passing of some appropriate

directions which are not likely to prejudice the interests of any of the parties.

8. Accordingly, the instant petition is disposed of with the direction to the respondents to facilitate the early payment of the amount due to the petitioners on account of the admitted liability for execution of the works mentioned in the memo of the petition with liberty to reconstruct the record in respect of any missing/untraceable files with the involvement of the petitioners.
9. The respondents shall submit a status report to the Registry of this Court within a period of four weeks.
10. **Disposed of.**

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR
30.09.2026
Shahid Manzoor