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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2313 of 2022

Virendra Kumar Sen S/o Shri Bhagwan Singh Sen Aged About 47 Years Caste Nai, R/o Ward No. 06, In Front Of Awasthi Colony, Geedam, District South Bastar Dantewada Chhattisgarh.

--- **Petitioner**

versus

- 1** - State Of Chhattisgarh Through The Secretary, Department Of Tribal Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
- 2** - Director Department Of Tribal Development, Indrawati Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
- 3** - Commissioner Department Of Tribal Development, Indrawati Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
- 4** - Collector Sukma, District Sukma Chhattisgarh.
- 5** - Assistant Commissioner Tribal Development Sukma , District Sukma Chhattisgarh.

--- **Respondents**

WPC No. 2369 of 2022

Virendra Kumar Sen S/o Shri Bhagwan Singh Sen Aged About 47 Years Caste Nai, R/o Ward No. 06, In Front Of Awasthi Colony, Geedam, District- South Bastar, Dantewada, Chhattisgarh

---**Petitioner**

Versus

1 - State Of Chhattisgarh Through- The Secretary, Department Of Education/rajeev Gandhi Shiksha Mission, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District : Raipur, Chhattisgarh

2 - Collector Cum Mission Leader Rajeev Gandhi Shiksha Mission, Sukma,, District : Sukuma, Chhattisgarh

3 - Chief Executive Officer Cum Director Rajeev Gandhi Shiksha Mission, Sukma, District : Sukuma, Chhattisgarh

4 - District Project Coordinator Overall Education, Sukma, District : Sukuma, Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	: Mr. Paras Mani Shriwas, Advocate
For State	: Mr. S.S. Choubey, Government Advocate
For Respondents No.3 & 4 in WPC No.2369/2022	: Mr. Rajendra Patel, Advocate on behalf of Mr. Shaleen Singh Baghel, Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

Order on Board

24.07.2026

1. Since both these writ petitions involve a common petitioner, arise out of substantially similar facts, raise identical questions of fact and law, challenge orders rejecting the petitioner's claim for payment towards hair-cutting work undertaken in Government residential institutions in District Sukma, and involve common issues relating to the maintainability of a writ petition in the face of seriously disputed questions of fact, they were clubbed together, heard analogously and are being decided by this common order.
2. By filing the present writ petitions, the petitioner, who is one and the same person, namely Virendra Kumar Sen, has called in

question the legality, validity and correctness of (i) the communication dated 15.12.2021 issued by the Assistant Commissioner, Tribal Development Department, Sukma rejecting the petitioner's claim for payment of Rs.18,20,820/- pertaining to hair-cutting work allegedly executed during the academic session 2015-16 in various Government Ashrams and Residential Schools of District Sukma, which is the subject matter of WPC No.2313 of 2022, and (ii) the communication dated 24.12.2021 issued by the District Education Officer-cum-District Project Coordinator, Rajiv Gandhi Shiksha Mission, Sukma rejecting the petitioner's claim for payment of Rs.9,90,800/- allegedly payable towards hair-cutting work carried out during the academic sessions 2016-17 and 2017-18 in Pota Cabin Residential Schools under Rajiv Gandhi Shiksha Mission, which is the subject matter of WPC No.2369 of 2022, with consequential relief of payment of the aforesaid amounts along with interest and other ancillary reliefs.

3. Briefly stated, the consolidated facts of both the writ petitions are that the petitioner is engaged in the business of running a barber shop in the name and style of New Bajrang Hair Art, Geedam. According to him, pursuant to advertisements issued by the respondent authorities inviting tenders for undertaking hair-cutting work of students residing in Government Ashrams, Hostels, Residential Schools and Pota Cabin Schools situated in District

Sukma, he participated in the tender process and was awarded the work by the competent authorities.

4. It is the case of the petitioner that pursuant to the work order dated 08.02.2013 issued by the Collector-cum-Mission Leader, Rajiv Gandhi Shiksha Mission, Sukma and the subsequent work order dated 22.07.2015 issued by the Assistant Commissioner, Tribal Development Department, Sukma, he along with his team members continuously rendered hair-cutting services to students studying in various Government residential institutions. According to the petitioner, the work was executed to the satisfaction of the authorities concerned and was duly verified by the respective Superintendents, Assistant Superintendents and Head Masters, who issued verification certificates certifying completion of the work.
5. It is further pleaded that although certain payments were released by the respondents from time to time through cheques issued in favour of New Bajrang Hair Art, substantial amounts remained unpaid. According to the petitioner, an amount of Rs.18,20,820/- remained outstanding in respect of the work executed during the academic session 2015-16, whereas an amount of Rs.9,90,800/- remained unpaid towards the work allegedly executed during the academic sessions 2016-17 and 2017-18. The petitioner submits that despite repeated representations submitted before the competent authorities, including representations dated

15.04.2019 and 11.01.2021, communications addressed to the Hon'ble Chief Minister, recommendations made by the then Member of Parliament and correspondence exchanged between various Government Departments, no payment was released.

6. It is further the case of the petitioner that he had earlier approached this Court by filing WPC No.2186 of 2020 and WPC No.2206 of 2020, wherein this Court directed the authorities to consider his fresh representations and, if found entitled, release the admissible amount within the stipulated period.
7. According to the petitioner, instead of releasing the legitimate dues, the respondent authorities rejected his claims by issuing the impugned communications dated 15.12.2021 and 24.12.2021, wherein it was stated that the petitioner had already received payment from the students themselves out of their pocket money and, therefore, no further amount was payable. Being aggrieved thereby, the petitioner has filed the present writ petitions.
8. Mr. Paras Mani Shriwas, learned counsel appearing for the petitioner in both the writ petitions, would submit that the impugned orders are wholly arbitrary, illegal, unreasonable and have been passed only with a view to deny the legitimate dues of the petitioner. He would submit that there is no dispute regarding the award of work in favour of the petitioner. The work orders issued by the competent authorities are admitted documents. It is

also not disputed that the petitioner actually carried out the hair-cutting work in various residential institutions. According to him, the work executed by the petitioner stood duly verified by the concerned Superintendents, Assistant Superintendents and Head Masters, who issued certificates acknowledging completion of the work. It is, therefore, submitted that once the respondents themselves accepted execution of the work and released part payment, there was no justification in withholding the remaining amount.

9. Learned counsel would further submit that till the year 2021, none of the respondent authorities ever disputed the petitioner's entitlement. On the contrary, departmental communications, including the communication dated 07.01.2020, acknowledged that substantial dues were payable to the petitioner. It is only after contempt proceedings were initiated that a completely new case was set up by the respondents alleging that payment had already been made by individual students from their pocket money. According to him, this defence is wholly artificial, fabricated and has been invented merely to avoid compliance with the earlier directions issued by this Court. He would also submit that the impugned communications are based on alleged certificates said to have been obtained from various Superintendents during meetings convened in December, 2021. These certificates, according to him, are unilateral documents prepared behind the back of the petitioner without affording him any opportunity of

hearing or verification. It is argued that no contemporaneous record exists to establish that thousands of students individually paid the petitioner from their pocket money. Therefore, the impugned orders deserve to be quashed and the respondents be directed to release the outstanding amount along with interest.

10. Per contra, Mr. S.S. Choubey, learned Government Advocate, opposes the submissions advanced on behalf of the petitioner and submits that both the writ petitions deserve to be dismissed at the threshold. He further submits that the petitioner has an efficacious alternative remedy available under law. More importantly, the claims raised by the petitioner involve highly disputed questions of fact, namely, whether the petitioner had already received payment, whether the payments were made through Government funds or by students themselves, whether any further amount remained payable, whether the verification certificates relied upon by the petitioner are genuine and whether the certificates relied upon by the respondents correctly reflect the factual position. According to him, these disputed questions cannot be adjudicated in exercise of writ jurisdiction under Article 226 of the Constitution of India.
11. Learned Government Advocate would submit that pursuant to the earlier directions issued by this Court, the petitioner's representations were duly examined. Meetings were convened at the Block level in the presence of the concerned Superintendents

and other officials, who categorically stated that the petitioner had already received payment from the students. On the basis of such verification, reasoned orders dated 15.12.2021 and 24.12.2021 were passed rejecting the petitioner's claim. It is, therefore, submitted that no arbitrariness or illegality can be attributed to the impugned orders. He lastly submits that the writ Court cannot undertake a detailed enquiry into disputed questions involving appreciation of oral and documentary evidence. The petitioner, if so advised, may avail such other remedies as are available under law.

12. Mr. Rajendra Patel, learned counsel holding brief for Mr. Shalen Singh Baghel, learned counsel appearing for respondents No.3 and 4 in WPC No.2369 of 2022, while adopting the submissions advanced by the learned State counsel, would additionally submit that the petitioner has deliberately suppressed material facts. He submits that after a detailed verification conducted by the authorities, it was found that the petitioner had already received payment from the concerned students and, therefore, the claim raised in the writ petition is wholly misconceived. According to him, the impugned order dated 24.12.2021 is a reasoned order based upon materials collected during departmental enquiry and no interference is warranted in exercise of writ jurisdiction. He has placed reliance upon the order passed by Division Bench of this Court in **WPC No.3016/2025 decided on 19.06.2025** in support of his contention.

13. During the course of hearing, this Court, by order dated 02.07.2026, directed as follows:-

“The Assistant Commissioner, Tribal Welfare Department, Sukma, District Sukma, shall remain present in person before this Court to explain the veracity of the facts, as a perusal of the record does not show that the hair-cutting allowance was paid to the petitioner by individual students. He shall appear before this Court along with the relevant documents in this regard on 24.07.2026.”

14. Pursuant to the aforesaid order, Mr. Hemant Kumar Sinha, Assistant Commissioner, Tribal Welfare Department, Sukma, is present before this Court along with the relevant records. He submits that after due verification from the concerned institutions, it was found that the petitioner had already received the payment towards hair-cutting charges and, therefore, no further Government liability survives.
15. Mr. Sinha would submit that the controversy sought to be raised by the petitioner cannot be resolved merely on the basis of affidavits and would necessarily require appreciation of evidence, examination of witnesses, scrutiny of the original records maintained by different institutions and adjudication of disputed facts. It is, therefore, submitted that both the writ petitions are not maintainable under Article 226 of the Constitution of India.

16. I have heard learned counsel for the parties at considerable length, perused the pleadings, the documents placed on record and also examined the original records produced before this Court pursuant to the order dated 02.07.2026.
17. It is settled law that the High Court should not exercise its jurisdiction under Article 226 of the Constitution of India when it raises disputed question of facts.
18. The Hon'ble Supreme Court in the case of ***Chairman, Grid Corporation of Orissa Ltd. (GRIDCO) & Others v. Sukamani Das (Smt.) & Another, (1999) 7 SCC 298*** was dealing with the question of whether the High Court had made an error in entertaining a writ petition filed seeking compensation for the death of a person due to electrocution, which had allegedly been caused due to the negligence of the authorities. The Hon'ble Supreme Court in the said case observed as under:-

“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that "admittedly/prima facie amounted to negligence on the part of the appellants". The High Court failed to

appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. The mere fact that the wire of the electric transmission line belonging to Appellant 1 had snapped and the deceased had come in contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come in contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. These questions could not have been decided properly on the basis of affidavits only. It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy. The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the civil court as it was done in OJC No. 5229 of 1995."

(emphasis supplied)”

19. The aforesaid judgment has been relied/ reiterated by the Hon’ble Supreme Court in ***S.P.S. Rathore v. State of Haryana & Others***, (2005) 10 SCC 1 wherein it observed as follows:-

“16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to this general rule by

observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution."

(emphasis supplied)"

20. Similarly, the Hon'ble Supreme Court in ***Shubhas Jain v. Rajeshwari Shivam, 2021 SCC OnLine SC 562*** has held as under:-

"26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable."

21. Subsequently, in ***Union of India vs. Puna Hinda, (2021) 10 SCC 690***, the Hon'ble Supreme Court has observed:-

"24. Therefore, the dispute could not be raised by way of a writ petition on the disputed questions of fact. Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. The dispute as to whether

the amount is payable or not and/or how much amount is payable are disputed questions of facts. There is no admission on the part of the appellants to infer that the amount stands crystallised. Therefore, in the absence of any acceptance of joint survey report by the competent authority, no right would accrue to the writ petitioner only because measurements cannot be undertaken after passage of time. Maybe, the resurvey cannot take place but the measurement books of the work executed from time to time would form a reasonable basis for assessing the amount due and payable to the writ petitioner, but such process could be undertaken only by the agreed forum i.e. arbitration and not by the writ court as it does not have the expertise in respect of measurements or construction of roads.”

22. Recently, the Hon'ble Supreme Court in the case of ***M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India (P) Ltd., (2023) 2 SCC 703***, while dealing with the issue of exercise of writ jurisdiction by a Court in matters arising out of a contract, has stated:-

“82.7. The existence of an alternate remedy, is, undoubtedly, a matter to be borne in mind in declining relief in a writ petition in a contractual matter. Again, the question as to whether the writ petitioner must be told off the gates, would depend upon the nature of the

claim and relief sought by the petitioner, the questions, which would have to be decided, and, most importantly, whether there are disputed questions of fact, resolution of which is necessary, as an indispensable prelude to the grant of the relief sought. Undoubtedly, while there is no prohibition, in the writ court even deciding disputed questions of fact, particularly when the dispute surrounds demystifying of documents only, the Court may relegate the party to the remedy by way of a civil suit.”

(emphasis supplied)”

23. A reading of the aforesaid judgments makes it clear that it is well settled proposition of law that when there are disputed question of facts involved in a case, the High Court should not exercise its jurisdiction under Article 226 of the Constitution of India. It has been held that the remedy under Article 226 of the Constitution of India may not be proper.
24. The principal grievance of the petitioner is that despite execution of hair-cutting work under valid work orders issued by the competent authorities, substantial payments remain outstanding. The respondents, on the other hand, categorically dispute the very foundation of the petitioner's claim by asserting that the petitioner has already received payment and that no further amount is payable. Thus, the core issue is not merely

computation of dues but whether any amount at all remains payable to the petitioner.

- 25.** The pleadings of the parties unmistakably reveal that serious and fundamental disputes exist regarding the factual matrix. The petitioner relies upon work orders, verification certificates and departmental communications to contend that outstanding amounts are payable. Conversely, the respondents rely upon subsequent verification conducted by the concerned Superintendents and certificates allegedly issued by them stating that the petitioner had already received payment from the students themselves. The correctness, authenticity and evidentiary value of these rival documents are seriously disputed.
- 26.** Determination of these rival claims would necessarily require recording of evidence, examination and cross-examination of the concerned Superintendents, Head Masters, students, officials and the petitioner himself, besides scrutiny of the original records relating to disbursement of funds, attendance registers, payment registers, vouchers and other contemporaneous documents. Such an exercise is clearly beyond the scope of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.
- 27.** It is well settled that although the writ jurisdiction of the High Court is wide, it is essentially intended for enforcement of public law rights and is ordinarily not exercised where adjudication of

the lis depends upon determination of seriously disputed questions of fact requiring appreciation of oral and documentary evidence. The present case is a classic example where both sides have projected mutually destructive factual versions regarding the very payment of the amount claimed by the petitioner.

- 28.** Even the personal appearance of the Assistant Commissioner pursuant to the order dated 02.07.2026 and production of the departmental records do not conclusively establish the rival factual assertions one way or the other. This Court, while exercising jurisdiction under Article 226 of the Constitution of India, cannot assume the role of a trial Court for conducting a detailed enquiry into such disputed factual issues.
- 29.** The relief claimed by the petitioner is essentially a monetary claim founded upon alleged contractual performance and disputed liability. Whether the petitioner has already received payment, whether any amount remains outstanding, whether the verification certificates relied upon by the petitioner prevail over the certificates relied upon by the respondents, and whether any further liability survives are all matters which require adjudication upon proper evidence before the competent forum.
- 30.** In the considered opinion of this Court, the entitlement of the petitioner to the amounts claimed in both the writ petitions is entirely dependent upon resolution of the disputed questions of

fact noticed hereinabove. Such issues cannot appropriately be adjudicated in proceedings under Article 226 of the Constitution of India.

31. Consequently, this Court is of the opinion that it would not be proper to entertain these writ petitions for grant of the monetary relief sought by the petitioner, as the controversy requires adjudication on evidence before the competent forum in accordance with law.
32. Accordingly, WPC No.2313 of 2022 and WPC No.2369 of 2022, being devoid of merit so far as exercise of writ jurisdiction is concerned, are liable to be and are hereby **dismissed**. However, it is made clear that dismissal of these writ petitions shall not preclude the petitioner from availing such other statutory or civil remedies as may be available to him under law for establishment and recovery of his alleged claim. If any such proceedings are instituted, the competent forum shall decide the same independently, on their own merits, in accordance with law, without being influenced by any observation made in the present order, as this Court has not expressed any opinion on the merits of the rival factual claims.
33. There shall be no order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge