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2026:CGHC:25595-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3028 of 2026

M/s Nitesh Raicha A- Class Electrical Contractor And Consultant, A Proprietorship Firm Through Its Proprietor Nitesh Raicha S/o Vijay Raicha, Aged About 43 Years, R/o Flat No. Rs/504, City Heart Residency Kailashpuri, Raipur, Distt. Raipur, Chhattisgarh.

... Petitioner

versus

1 - State of Chhattisgarh Through Secretary Mineral Resource, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, Distt. Raipur, Chhattisgarh.

2 - Collector Distt. South Bastar Dantewada, Chhattisgarh.

3 - The Zila Nirman Samiti Through Its President Additional Collector Distt. South Bastar Dantewada, Chhattisgarh.

4 - The Executive Engineer (O And M) C.S.P.D.C.L. Dantewada, Distt. South Bastar Dantewada, Chhattisgarh.

... Respondents

For Petitioner	: Ms. M. Asha, Advocate
For State/Respondents	: Mr. S.S. Baghel, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

23.06.2026

1. Heard Ms. M. Asha, learned counsel for the petitioner. Also heard Mr. S.S. Baghel, learned Government Advocate, appearing for the State/respondents.

2. The present writ petition has been filed by the petitioner with the following prayers:

“10.1) This Hon'ble Court may kindly be pleased to issue appropriate writ and set-aside the impugned order dated 02/01/2026 and direct the respondent authorities to direct the respondent authorities to release the remaining/withheld amount of Rs. 24,09,063/- with interest of 12% per annum in favor of the petitioner within such outer limit as the Hon'ble Court may deem fit in the light of facts and circumstances of the case.

10.2) This Hon'ble Court may kindly be pleased to issue appropriate writ and direct the respondents to kindly disburse the due/ undisputed amount of the petitioner after finalization of the bills within such outer limit as the Hon'ble Court may deem fit in the light of facts and circumstances of the case.

10.3) This Hon'ble Court may kindly be pleased to call for the entire records leading to the instant case, for kind perusal of this Hon'ble Court.

10.4) Any other relief which this Hon'ble Court deem fit and proper may also kindly be granted to the petitioner in the interest of justice along with cost of the petition.”

3. Brief facts of the case are that the petitioner is a duly registered proprietorship concern and an A-Class Electrical Contractor engaged in carrying out electrification works for various instrumentalities of the State. Pursuant to a tender floated by the respondent authorities for the work of “Electrification of 81 Nos. Pump Connections of Anicut at various Villages under (O&M) Division, Dantewada”, the petitioner

participated in the tender process and, upon being found successful, was awarded the contract vide work order dated 31.01.2023. An agreement was thereafter executed between the parties containing an arbitration clause for resolution of disputes. The petitioner duly completed the entire work to the satisfaction of the respondent authorities and submitted a final bill amounting to Rs.1,54,28,463/-. Out of the said amount, a sum of Rs.1,30,19,400/- was paid to the petitioner, whereas the balance amount of Rs.24,09,063/- was withheld despite completion of the work and verification of the bills by the competent authority. The respondent No.4 itself issued a memorandum of payment acknowledging that a total amount of Rs.1,54,28,463/- was payable to the petitioner and that an amount of Rs.24,09,063/- remained unpaid. Despite repeated requests and representations seeking release of the undisputed balance amount, no payment was made by the respondents. Aggrieved by the inaction of the respondents, the petitioner approached this Court in an earlier writ petition, wherein the respondents were directed to consider and decide the petitioner's representation. However, by order dated 02.01.2026, the respondents rejected the petitioner's claim on the ground that the amount claimed represented additional expenditure incurred beyond the sanctioned estimate and that no revised administrative approval had been obtained before incurring such expenditure. Hence, this petition.

4. Learned counsel for the petitioner submits that the impugned order dated 02.01.2026 is arbitrary, illegal and contrary to the material available on record. It is contended that the petitioner has successfully

completed the work awarded by the respondents and the same has been duly accepted without any objection regarding quality, quantity or execution of the work. It is further submitted that the respondents themselves have prepared and issued a memorandum of payment acknowledging that a total amount of Rs.1,54,28,463/- was payable to the petitioner, out of which Rs.1,30,19,400/- has already been paid and a balance amount of Rs.24,09,063/- remains unpaid. Once the liability and outstanding amount stand admitted by the respondents, there is no justification for withholding the said amount. Learned counsel submits that the sole ground assigned in the impugned order, namely absence of revised approval for additional expenditure, is wholly untenable inasmuch as the work was executed under the supervision of the respondent authorities and the benefit thereof has been fully availed by them. Having accepted the completed work, the respondents cannot deny payment on technical or procedural grounds. It is further argued that the action of the respondents amounts to unjust enrichment, as the respondents have enjoyed the benefit of the completed work while withholding legitimate dues payable to the petitioner. Reliance is placed upon the decision of the Hon'ble Supreme Court in **ABL International Ltd. v. Export Credit Guarantee Corporation of India Ltd., (2004) 3 SCC 553**, wherein it was held that in an appropriate case a writ petition is maintainable even in contractual matters when the action of the State or its instrumentalities is arbitrary, unreasonable or violative of Article 14 of the Constitution. Reliance is also placed on **Surya Constructions v. State of Uttar Pradesh, (2019) 16 SCC 794**, wherein the Hon'ble

Supreme Court observed that undisputed contractual dues cannot be withheld arbitrarily by the State and its instrumentalities. It is therefore submitted that the impugned order deserves to be quashed and the respondents be directed to release the admitted outstanding amount of Rs.24,09,063/- along with applicable interest within a time-bound period.

5. Per contra, learned State counsel, opposing the writ petition, submits that the present petition is not maintainable under Article 226 of the Constitution of India as the dispute raised by the petitioner arises purely out of a contract and involves disputed questions of fact requiring adjudication on the basis of evidence. It is submitted that the agreement executed between the parties contains a specific arbitration clause providing an efficacious alternative remedy for resolution of disputes. Therefore, in view of the agreed contractual mechanism, the petitioner ought to avail the remedy of arbitration instead of invoking the extraordinary writ jurisdiction of this Hon'ble Court.

6. We have learned counsel for the parties, perused the impugned order and other documents appended with writ petitions.

7. 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.

8. The Hon'ble Supreme Court in the case of ***Chairman, Grid Corporation of Orissa Ltd. (GRIDCO) & Others v. Sukamani Das (Smt.) & Another***, reported in (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)

9. The aforesaid judgment has been relied/ reiterated by the Hon'ble Supreme Court in ***S.P.S. Rathore v. State of Haryana & Others***, reported in ***(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)

10. Similarly, the Hon'ble Supreme Court in ***Shubhas Jain v. Rajeshwari Shivam***, reported in ***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."

11. Subsequently, in ***Union of India vs. Puna Hinda***, reported in ***(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.”

12. Recently, the Hon'ble Supreme Court in the case of ***M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India (P) Ltd.***, reported in **(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)

13. 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.

14. In the present cases, the undisputed facts reveal that the claim raised by the petitioner emanates from a works contract executed between the parties pursuant to a tender process. The grievance of the petitioner pertains to non-payment of an amount of Rs.24,09,063/-, which according to the petitioner remains payable after completion of the work. The respondents, however, have specifically disputed the entitlement of the petitioner to the said amount on the ground that the claim relates to expenditure incurred beyond the sanctioned estimate and without obtaining revised approval from the competent authority. Thus, the core controversy is not with regard to a simple admitted liability but concerns the entitlement of the petitioner to claim payment towards alleged additional work/expenditure. Adjudication of such a claim would necessarily require examination of contractual terms, departmental records, sanctioned estimates, nature and extent of work executed, approval requirements under the applicable financial rules, and other disputed factual aspects. Such an exercise cannot conveniently be undertaken in writ proceedings.

15. It is also not in dispute that the agreement executed between the parties contains an arbitration clause providing a contractual mechanism for resolution of disputes arising out of the contract. The existence of such an efficacious alternative remedy assumes significance in the facts of the present case where the dispute is essentially contractual in nature.

16. In the considered opinion of this Court, the dispute raised by the petitioner is essentially contractual in nature and involves disputed questions of fact which cannot be satisfactorily adjudicated in exercise of extraordinary writ jurisdiction under Article 226 of the Constitution of India. The petitioner has an efficacious alternative remedy under the arbitration clause contained in the agreement and is at liberty to avail such remedy in accordance with law.

17. Accordingly, the writ petition is **dismissed**. It is, however, made clear that this Court has not expressed any opinion on the merits of the rival claims of the parties. The petitioner shall be at liberty to invoke the arbitration clause or avail any other remedy available in law for adjudication of its claim. In the event such proceedings are initiated, the same shall be considered and decided on their own merits, uninfluenced by any observation made in this order. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice