

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

54 WRIT PETITION NO.8535 OF 2022

M/S NCC LTD. FORMALLY M/S NAGARJUNA CONSTRUCTION
COMPANY LTD. HYDERABAD THROUGH AUTHORIZED OFFICER

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE DIVISIONAL
COMMISSIONER AND OTHERS

...

Advocate for Petitioner: Mr. More Abhijit S.

AGP for Respondent/State: Mr. P. K. Lakhotiya

...

CORAM: RAVINDRA V. GHUGE

AND

ARUN R. PEDNEKER, JJ.

DATE: 23rd AUGUST, 2022

PER COURT:

1. The Petitioner, a private contractor, has put-forth prayer clause 'B', as under:-

"[B] This Hon'ble Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or directions in the nature like nature, directing the respondent No.3 Municipal Council to pay balance amount of Rs.3,21,12,482/- to the petitioner on account of work done by the petitioner namely Aug. Osmanabad Water Supply Scheme (Source Bima Ujani Dam) by respondent No.3 Municipal Council Osmanabad under

Contract Agreement No. B-1/14 (Papu) 2009-10 dated 24.8.2009 and for that purpose necessary orders may be issued. "

2. The Petitioner, therefore, desires that this Court should recover an amount of Rs.3,21,12,482/- from the Municipal Council for the work done by the Petitioner under the Osmanabad Water Supply Scheme (Source Bima Ujani Dam) under contract agreement No.B-1/14 (Papu) 2009-2010, dated 24.08.2009. This Petition has been filed on 21.06.2022.

3. The learned AGP submits that recovering unpaid amounts under a contract is beyond the scope of the Writ of Mandamus. The Petitioner should have been diligent and can approach the Trial Court.

4. The Petitioner has efficacious remedy available, of filing a recovery suit for seeking recovery of unpaid amounts. All disputed issues can be considered by the Trial Court.

5. In view of the above, this Petition is disposed off. The Petitioner would be at liberty to avail of a remedy, if permissible in law considering the law of limitation.

[ARUN R. PEDNEKER, J.]

[RAVINDRA V. GHUGE, J.]

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