

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 8525 of 2026

**Associate Co-operative Labour Contract and Construction Society
Limited & Anr.**

Versus

Raiganj Municipality & Ors.

with

WPA 8527 of 2026

**West Dinajpur Papasil Labour Co-operative Contract and
Construction Society Ltd. & Anr.**

Versus

Raiganj Municipality & Ors.

with

WPA 8529 of 2026

Chakraborty Construction & Anr.

Versus

Raiganj Municipality & Ors.

with

WPA 8536 of 2026

Kallol Bose

Versus

Raiganj Municipality & Ors.

For the petitioners : Mr. Goutam Kumar Thakur

For the Municipality : Mr. Arka Kumar Nag
Ms. Deboleena Ghosh
Mr. S. Bandopadhyay

For the State : Mr. Ajit Kumar Mishra
Mr. Gopal Krishna Sarkar

For the State in : Mr. S. N. Dutta
WPA 8525 of 2026. Mr. Samrat Ghosh

Heard on : 30.06.2026.

Judgment on : 30.06.2026.

Raja Basu Chowdhury, J (Oral):

1. Since the four writ petitions raised identical questions, the same are taken up together.
2. The writ petitions have been filed, inter alia, praying for a direction upon the Chairperson of the Board of Administrator of Raiganj Municipality to make payment of the outstanding amount arising out of the work orders issued by the Chairman of the municipality under different notice inviting tender which have been morefully described in paragraph 2 of the writ petition.
3. It is the petitioners' case that the petitioners had duly executed the works under several work orders and had also prayed for disbursement of the billed amount. Unfortunately, according to the petitioners due to change of constitution of board, the State Government had appointed the Sub-Divisional Officer, Raiganj, as an administrator of the municipality. The newly appointed administrator had enquired into diverse allegations, including the allegation of the erstwhile Chairman in awarding work orders in violation of the established norms and prescribed procedure. According to the petitioners, criminal proceedings were also initiated which culminated into a criminal trial and upon conclusion of trial, the Chairman was ultimately acquitted by the

competent Court by an order dated 30th April, 2024. The petitioners would complain that by reasons of pendency of the criminal proceedings, the legitimate dues of the petitioners were withheld. According to the petitioners, immediately upon conclusion of the work as aforesaid under the different wards of the municipality, the then Chief Engineer, Municipal Engineer Directorate (in short, MED) passed an order on 21st December, 2018, directing the Executive Engineer (MED) Raiganj Division to enquire into and make field level enquiry of 269 nos. schemes which had already been implemented during the Chairmanship of the erstwhile Chairman. Following the above, a report was submitted by the Executive Engineer (MED), Government of West Bengal, with the Chief Engineer, MED, Bikash Bhawan, by a cover letter dated 16th May, 2019.

4. Mr. Thakur, learned advocate representing the petitioners by drawing attention of this Court to the serial nos. 7, 20, 56, 63, 64, 78 and 84 in respect of WPA 8525 of 2026 and serial nos. 53, 157, 158 in respect of WPA 8527 of 2026 and serial no. 13 in WPA 8529 of 2026 and serial nos. 171, 172 and 173 in respect of WPA 8536 of 2026 would submit that the work executed by the petitioners were also enquired into and as per the work status the same appears to have been completed and the bills submitted to the accounts section. He submits that in an identical set of facts one of the contractors had approached this Court in WPA 17176 of 2023. The

said writ petition was disposed of by directing the Principal Secretary, Department of Urban Development and Municipal Affairs to take a decision in the matter. Following the aforesaid, the concerned Secretary to the Government of West Bengal had passed an order dated 18th December, 2023 by observing as under:-

“On examination of the submission of the petitioners, representatives of the Raiganj Municipality and available office records/documents, it appears that;

(i) The works in question were undertaken by Raiganj Municipality out of its own capacity. As per official record, it is found that no Administrative Approval and Financial Sanction (AA& FS) was issued from this Department. Hence, this Department cannot take any liability for payment of works for which no Administrative Approval and Financial Sanction (AA&FS) was taken by the municipality.

(ii) After several years of completion of the said works, the Municipality approached before this Department for release of fund. The procedure followed for execution of the works as beyond existing financial and technical norms, hence a physical enquiry was directed to be conducted by Municipal Engineering Directorate vide this Department’s letter no. 147(Law)-C12/M/3S-37/2018 dated 16.08.2018. Therefore, it could not be considered for post-facto approval.

(iii) The enquiry was conducted on 16.05.2019 by the Municipal Engineering Directorate under the Urban Development and Municipal Affairs Department, Government of West Bengal.

(iv) The Raiganj Municipality, being the Respondent No.1 was the Tender issuing authority and the work order was issued by the respondent no.1.

(v) At the time of conducting the enquiry by the Municipal Engineering Directorate under the Urban Development and

Municipal Affairs Department, Government of West Bengal, the respondent no.1 was duly informed prior to the same and the Chairman of the Respondent no.1 has duly endorsed the concluding page of the enquiry report.

(vi) The enquiry report was also forwarded to the respondent no.1 by the Executive Engineer, Dinajpur Division, Municipal Engineering Directorate vide a Memo bearing No. MED/DJP/67/V-3/2016, Pt. 1 dated 16.05.2019.

(vii) As per present prevailing procedure, before commencing a scheme/project the concerned Urban Local Bodies is to submit a Detailed Project Report (DPR) properly vetted by the Competent Authority with updated G.S.T. rate along with a copy of Resolution of Board of Councillors for obtaining Administrative Approval and Financial Sanction (AA&FS). In the instant case, this procedure had not been followed by Raiganj Municipality. After several years of completion of the said works, the Municipality approached before this Department for release of fund which cannot be considered at present on post facto basis.

In view of the above, it is stated that the liability to clear the dues to the petitioner for the works executed by Raiganj Municipality on its own initiative without prior approval of State Government, is upon Raiganj Municipality itself. State Government cannot take the liability to release of fund for implementation of schemes for which no Administrative Approval and Financial Sanction (AA&FS) was issued.”

5. Being aggrieved with the denial of liability by the State on the ground that the works executed by the petitioners at the instance of the Raiganj Municipality was without the approval of the Government and as such the Government cannot be held liable to release the funds for implementation of scheme for which no

Administrative Approval and Financial Sanction (AA&FS) was issued, a writ petition was filed before this Court which was registered as WPA 3255 of 2024. By an order dated 17th April, 2025, a Coordinate Bench of this Court while taking note of the peculiar facts and noting that in a welfare State, the Government is expected to play a parental role towards its citizens, particularly in matters concerning welfare, protection and infrastructure development and following the principle of the doctrine of *parens patriae* and also noting that the municipality functions as a parastatal body acting on behalf of the State in a delegated capacity and in the given facts there can be no dispute that the benefits of the works which had been completed without any objection regarding quality or process, are presently being enjoyed by the citizens of the State, directed the Principal Secretary, Government of West Bengal to ensure that the verified amount is disbursed in favour of the petitioner within the time frame specified.

6. Being aggrieved, the Raiganj Municipality preferred an appeal which was registered as MAT 896 of 2025. By an order dated 14th July, 2025, the Hon'ble Division Bench of this Court had directed the Principal Secretary, Department of Finance, Government of West Bengal to be arrayed as party respondent to the said proceedings. The appeal thereafter was heard and was dismissed by the said order, *inter alia*, observing as follows:'

“What has weighed with this Court in agreeing with the Single Bench is that the completion certificate of the works has been issued by the State. An authority under the State has conducted an enquiry. An official of the Municipal Affairs Department of the State, inter alia, has issued a report dated 16th May, 2019 which has clearly found that the work entrusted and undertaken by the petitioner have been completed. The State could not prove in the criminal trial against the erstwhile Chairman any of the allegations against him. Indeed, the State has preferred an appeal against the order of acquittal before this Court.

In the backdrop of the above facts, especially that the writ petitioner has completed works in question and has delivered the same to the satisfaction of the State Government, the State Government in terms of the principles of unjust enrichment, quantum meruit under Section 70 of the Contract Act is liable to the writ petitioner. The State cannot absolve itself of its liability in the backdrop of the above.

The State cannot unjustly enrich itself for works done for its benefit. The citizens of the Municipality used and continue to use the works done. Roads, public buildings and the hospitals constructed by the writ petitioner. Criminal proceedings against the then Chairman have failed in the first instance.

The principle of quantum meruit would apply in the cases of works done without a contract. There is in such cases a deemed/implied agreement with the State. The Doctrine of Public Trust also comes to play in the facts of this case.

The principle against unjust enrichment and restitution have been explained at Paragraph 8 of the decision of the Supreme Court in the case of Mahabir Kishore and Ors. Vs. State of MP reported in (1989) 4 SCC 1.

“8. The question is what was the law applicable to the case. “Nul ne doit s'enrichir aux dépens des autres”—No one ought to enrich himself at the expense of others. This doctrine at one stage of English common law was remedied by “indebitatus assumpsit” which action lay for money “had and received to the

*use of the plaintiff". It lay to recover money paid under a mistake, or extorted from the plaintiff by duress of his goods, or paid to the defendant on a consideration which totally failed. On abolition of "indebitatus assumpsit" courts used to imply a promise to pay which, however, in course of time was held to be purely fictitious. Lord Mansfield in *Moses v. Macferlan* [(1760) 2 Burr 1005, 1012] explained the juridical basis of the action for money "had and received" thus: "This kind of equitable action, to recover back money, which ought not in justice to be kept, is very beneficial, and therefore much encouraged. It lies only for money which, „ex aequo et bono", the defendant ought to refund; it does not lie for money paid by the plaintiff, which is claimed of him as payable in point of honour and honesty, although it could not have been recovered from him by any course of law; as in payment of a debt barred by the Statute of Limitations, or contracted during his infancy, or to the extent of principal and legal interest upon a usurious contract, or, for money fairly lost at play; because in all these cases, the defendant may retain it with a safe conscience, though by positive law he was barred from recovering. But it lies for money paid by mistake; or upon a consideration which happens to fail; or for money got through imposition (express or implied); or extortion; or oppression; or an undue advantage taken of the plaintiff's situation, contrary to laws made for the protection of persons under those circumstances. In one word, the gist of this kind of action is, that the defendant, upon the circumstances of the case, is obliged by the ties of natural justice and equity to refund the money."*

*There is one argument that comes to the mind of this Court that could have been advanced by the State. Matters of this nature must be decided in a civil proceeding by trial and evidence. Exceptions thereto have been carved out in the decision of the Supreme Court in the case of *ABL International Ltd. and Anr. Vs. Export Credit Guarantee Corporation of India Ltd. and Ors.* reported in (2004) 3 SCC 553 and narrowed down to some extent*

in the case of Joshi Technologies International Inc. Vs. Union of India reported in (2015) 7 SCC 728 .

This case, in the opinion of this Court, clearly falls within such exception.

For the reasons stated hereinabove, the appeal fails and hereby dismissed. Consequently, all connected pending applications, if any, are also dismissed.

The impugned order is modified to a limited extent that the Raiganj Municipality shall be liable to pay the appellant as directed by the Single Bench upon funds being put in by the State.

The Principal Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal, the Principal Secretary, Department of Finance, Government of West Bengal and the Chairman, Raiganj Municipality shall be responsible for complying with this order.

Needless to mention that the direction of the Single Bench that the quantum of claim of the writ petitioner may be reassessed by the Principal Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal, Principal Secretary, Department of Finance, Government of West Bengal and the Chairman, Raiganj Municipality.

The time frame for complying with the above is extended by a period of one month from date.”

7. The matter did not rest there, the Government did not comply with the direction for ensuring payment. A review application was filed by the Principal Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal which was registered as RVW 285 of 2025, the same was taken up for consideration by keeping the contempt application pending. Though, the explanation provided for delay was not acceptable, however, the Hon'ble Division Bench of this Court for the ends of justice by condoning the delay

by an order dated 19th September, 2025 had taken up the hearing of the review application. The review was filed primarily on the ground that the Raiganj Municipality had not taken prior approval under Section 73(A) of the West Bengal Municipal Act, 1993 (hereinafter referred to as the “said Act”) prior to issuance of the work order and the completion certificate to the appellant for implementation of 271 schemes within the municipality. The Hon’ble Division Bench of this Court by the aforesaid order was pleased to observe that construction work for which tender was floated and awarded to the petitioner was for construction of roads, hostels and other municipal buildings for the benefit of the citizens of Raiganj Municipality. The work in question also covered under 271 schemes within the municipality and was sponsored by the State Government. As such the State was obliged to fund under Section 71(A) of the said Act. The issue of seeking approval of the State Government had already been dealt with in the judgment dated 14th July, 2025 and also noting that the State itself had conducted an enquiry into the matter, the Court found that there was no sufficient ground for maintaining the review from the order dated 14th July, 2025 and accordingly, dismissed the same.

8. The petitioners claim to be similarly placed. When the matter came up for consideration, by an order dated 28th April, 2026, this Court had directed the municipality to take instructions as regards the enquiry report and ascertain whether the bills which have been

submitted in respect of the works executed have been paid in favour of the petitioners or not. Such instruction was directed to be filed in the form of report on or before the matter is taken up next.

9. Pursuant to the aforesaid direction, a report dated 16th June, 2026 has already been filed which had been taken on record on 17th June, 2026.

10. Today, learned advocate representing the State has also filed a report. From the report filed by the municipality as also by the State it is apparent and clear that there is no Administrative Approval and Financial Sanction (AA&FS) seems to have been issued from the department in respect of the works executed. It is also not in dispute that an enquiry had been conducted by the State in respect of the works executed which are covered under the schemes. Mr. Dutta, learned advocate at this stage appearing for the State in WPA 8525 of 2026 would submit that though the Coordinate Bench of this Court had directed the Principal Secretary to ensure that the verified amount as was directed, be disbursed by the municipality, however, the Hon'ble Appeal Court by its order dated 14th July, 2025 despite agreeing with the direction issued by the learned Coordinate Bench had clarified that the quantum of claim of the writ petitioner may be reassessed by the Principal Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal, Principal Secretary, Department of Finance, Government of West Bengal and the Chairman, Raiganj

Municipality. Accordingly, he submits that similar direction may be issued.

11. Having heard the learned advocates appearing for the respective parties and having regard to the peculiar state of affairs and noting from the materials on record that the petitioners are not differently placed from the case of **Nandalal Saha & Ors.** and rather the petitioners' case lies on the same footing and since, in the instant case an enquiry has already been conducted by the State and the defence of the State as regards non-grant of Administrative Approval and Financial Sanction (AA&FS) has been considered and overruled by the Coordinate Bench which also has the approval of the Hon'ble Division Bench and further noting that it is not in dispute that the works executed by the petitioners without objection from any quarters are being enjoyed by the citizens of the municipality, I am of the view, in the given facts, it shall only be appropriate to direct the Principal Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal, Principal Secretary, Department of Finance, Government of West Bengal and the Chairman, Raiganj Municipality or any one in control of the Raiganj Municipality to disburse the admitted amount as is reflected in the report of the municipality in favour of the petitioners on an expeditious basis. However, the concerned authorities including the Principal Secretary, Department of Municipal Affairs, Principal Secretary, Department of Finance,

Government of West Bengal and the Chairman or person in control of the Raiganj Municipality shall be at liberty to reassess the quantum in accordance with law. In no event, the payment shall be held back. The payment as directed should be made within a period of two months from the date of communication of this order.

12. With the above observations and directions, the aforesaid writ petitions are disposed of.
13. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

**SB
A.R. (Court)**