S/L 9
13.02.2026
Court. No. 25
Suvayan/
Sourav

WPA 20466 of 2025

Dilip Kumar Konar
Vs.
The State of West Bengal & Ors.

Mr. Sourav Prasanna Mukherjee
Mr. Arka Mondal
...for the Petitioner.

Mr. Amal Kr. Sen, ld. AAG
Mr. Lal Mohan Basu
...for the State.

1. The petitioner has filed the present writ application praying for a direction upon the respondent authorities for release of the outstanding due amount of Rs. 75,54,161/-. The petitioner submits that the respondent authorities have issued four work orders for the four schemes and as per the work order issued by the respondent authorities, the petitioner has completed the work and submit the bill for a total amount of Rs. 75,54,161/- but the same has not paid.
2. Learned counsel for the petitioner submits that by an order dated September 4, 2025 when the writ petition is moved before this Court the respondent authorities have admitted an amount of Rs. 36 lakhs and in terms of the order passed by this Court, the respondent authorities have paid an amount of Rs. 31,80,753/- after deducting the all tax and remaining amount has not been paid. In compliance of the order dated September 4, 2025 the respondent authorities have filed the report but the report is contrary to the document which the petitioner has disclosed and the documents relied by the

respondents is created after the order passed by this Court.

3. The petitioner has relied upon the judgment in the case of ***ABL International Ltd. & Anr. vs. Export Credit Guarantee Corporation*** reported in ***AIR Online 2003 SC 700*** and submits that in an appropriate case a writ petition as against State or an instrumentality of a State arising out of a contractual obligation is maintainable. He further submits that the Hon'ble Supreme Court has also held that because of some disputed questions of facts arise for consideration, same cannot be a ground to refuse to entertain a writ petition in all cases as the matter of rule. He further submits that the Hon'ble Supreme Court has further held that the writ petition involving the consequential relief of monetary claim is also maintainable.

4. Learned counsel for the State submits that this prior to filing of the writ application the petitioner has filed previous writ application being WPA 12712 of 2025 and the said writ petition was disposed of by this Court by an order dated June 20,2025 wherein this Court directed the petitioner to visit the office of the Block Development Officer for putting the signature in the measurement book. This Court also directed the petitioner to produce the copy of the bills raised for receiving payment and this Court directed the Block Development Officer to ensure that payment is released in favour of the petitioner within six weeks from the date of completion of the work.

Learned counsel for the State submits that the petitioner has not challenged the said order.

5. Learned counsel for the respondents submits that in spite of request made to the petitioner, the petitioner has not come forward to sign measure book in spite he has submitted the representation.

6. The learned counsel for the State submits that the respondent authorities have issued four work orders under four schemes. As per the measurement book available with the authorities though the petitioner has not come forward to sign the measurement book, the authorities have calculated the amount and released the amount of Rs. 31,80,753/- after deducting the total tax. The petitioner is disputing with regard to the measurement of the work and thus this Court in the writ jurisdiction cannot decide the disputed question of fact in the writ petition.

7. In support of his submission, the learned counsel for the respondents has relied upon the judgment in the case of ***Union of India & Ors. vs. Puna Hinda*** reported in ***(2021) 10 SCC 690*** and submits that in the said case the Hon'ble Supreme Court has categorically held that the disputed could not be raised by way of a writ petition on the disputed questions of fact. He prays for dismissal of the writ application.

8. Heard the learned counsel for the respective parties perused the materials on record and the documents relied by the parties.

9. This is a second round of litigation. On the earlier occasion the similar prayer was made by the petitioner for release of the amount. This Court by an order dated June 20, 2025 has disposed of the writ application by passing the following order:

> *"4. Upon hearing the parties and on perusal of the documents placed before this Court it appears that till the technical part is complied with, it may not be possible for the Block Development Officer to release payment. The signature of the petitioner would be required in the measurement book.*
>
> *5. The petitioner is directed to visit the office of the Block Development Officer for putting his signature in the measurement book. The petitioner shall produce the copy of the bills raised for receiving payment.*
>
> *6. The Block Development Officer is directed to ensure that payment is released in favour of the petitioner within six weeks from the date of completion of all necessary formalities.*
>
> *7. The petitioner is directed to cooperate with the Block Development Officer and the Block Medical Officer of Health for the purpose of releasing the final bill"*

10. In terms of the order passed by this Court dated June 20, 2025, the Block Development Officer has requested the petitioner to visit the engineering section of the Block and to execute the measurement book and to resubmit the bill in conformity with the record measurement in consultation with the assigned engineer to facilitate the release of the payment without any further delay.

11. The petitioner instead of appearing before the authorities have submitted his representation and refused the sign the measurement. As the petitioner has not come forward to sign the measurement book and finding no other alternative, the measurement book available with the respondent authorities, the authorities have verified the bill submitted by the petitioner and finds that the petitioner is entitled to get the total amount of Rs. 36,98,553/- and out of the said amount, an amount of Rs. 5,17,800/- has been deducted being the tax payable to the Government and the remaining amount of Rs. 31,80,753/- has been paid to the petitioner and there is no amount due and pending against the petitioner.
12. The petitioner in his reply to the report filed by the authorities, stated that if the measurement book available with the petitioner is compared with the measurement book of the respondents, the respondents have reduced the quantity of work executed by the petitioner and calculated less quantity of work than the work executed by the petitioner.
13. The judgment relied by the petitioner in the case of ***ABL International Ltd. & Anr. (supra)***, the Hon'ble Supreme Court held that in an appropriate case the writ petition against the state or instrumentalities of the State arising out of the contract is maintainable but in the present case, this Court finds that the petitioner is not visiting the office of the respondent authorities to sign the measurement book. Finding no other alternative, the measurement book which was available with the

authorities, the authorities have calculated the amount and came to the conclusion that the petitioner is entitled to get an amount of Rs. 36,98,553/-.

14. Now the petitioner is relying upon his own measurement book and submits that the measurement book relied by the respondents is not tallying with the measurement book available with the petitioner. The said disputed question cannot go into by this Court in the writ jurisdiction. In the case of ***Puna Hinda (supra)*** the Hon'ble Supreme Court categorically held that:

> *"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"*

15. In the present case also the respondents are relying upon the measurement book on the basis of which on verification of the said measurement book has come to the conclusion that the petitioner is entitled to get an amount of Rs. 36,98,553/- and the respondents after deducting the relevant tax release the said amount of Rs. 31,80,753/-. As regard the balance amount which the petitioner is claiming in terms of the measurement book with the petitioner, this Court cannot go into the said disputed question of fact whether the petitioner has actually executed the work which the petitioner is relying upon or the measurement book which the respondents are relied upon is not correct.
16. Thus the writ petition is dismissed. However, the dismissal of the writ petition will not prevent the petitioner to take appropriate steps before the appropriate forum for his claim.
17. WPA 20466 of 2025 is dismissed.
18. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)