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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5067 of 2026

1 - Mahavir Son Of Late Punni Lal Ujagar, Aged About 23 Years Resident Of Bharari Police Station Kota District Bilaspur Chhattisgarh (Being Handicapped Represented To Mother Suhaga Bai, Aged About 61 Years, Wife Of Late Punni Lal R/o Bharari, Police Station Kota, District Bilaspur (C.G.)

... Petitioner

versus

1 - State Of Chhattisgarh Through Secretary, Department Of Home Affairs (Police) New Raipur, Mantralaya, New Raipur, Civil And Revenue District Raipur (C.G.)

2 - The Collector, Bilaspur, Civil And Revenue District Bilaspur (C.G.)

3 - Execution Engineer (O.And M.), Chhattisgarh State Power Distribution Company Limited, Bilaspur, District Bilaspur (C.G.)

4 - Chairman, Chhattisgarh State Power Distribution Company Limited, Daganiya, Raipur District Raipur (C.G.)

5 - Superintendent Of Police, Bilaspur, Civil And Revenue District Bilaspur (C.G.)

6 - District Magistrate Bilaspur, Civil And Revenue District Bilaspur (C.G.)

7 - Station House Officer Police Station Kota, District Bilaspur (C.G.)

8 - Diwan Farm House, Through Its Proprietor Somitra Diwan, Resident Of Village Bharari, Police Station Kota, District Bilaspur (C.G.)

... Respondents

For Petitioner	:	Mr. Punit Ruparel, Advocate
For Respondents No.3 & 4	:	Mr. Mayank Chandrakar, Advocate
For State	:	Mr. Praveen Das, Additional AG

Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

06/10/2026

1. The petitioner, in this Writ Petition, has prayed for the following reliefs:-

> *"i. That, this Hon'ble Court may kindly be pleased to direct the respondent authorities (respondent no. 3 & 4) to pay compensation in tune of Rs. 90 lacs with 6% per annum interest for the burn injury sustained by the petitioner as per the guideline issued by Hon'ble Supreme Court in Case of "State of Himanchal Pradesh and others Vs. Naval Kumar alias Rohit Kumar in Civil Appeal no. 1339/2017" which may recover by the authority from the respondent No. 8.*
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> *ii. That, this Hon'ble Court may kindly be pleased to direct the respondent no. 3 & 4 to decide the pending representation of the petitioner dated 25th June 2026 and awarded him appropriate compensation within stipulated time.*
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> *iii. Any other relief, which this Hon'ble Court deems fit and proper, may also, kindly be granted to the petitioner in the interest of justice.*
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> *iv. Cost of the petition may also be granted to the petitioner."*

2. From the perusal of the reliefs sought by the petitioner, it appears that the present petition is not maintainable for the relief claimed. The petitioner ought to have approached the concerned Civil Court seeking appropriate relief, as disputed questions of fact are involved in the matter. Such disputed questions of fact cannot appropriately be adjudicated in the

present proceedings, particularly when their determination would require framing of issues and recording of evidence in appropriate civil proceedings.

3. Learned State counsel as well as learned counsel appearing for respondents No.3 and 4 have also submitted that the relief as claimed by the petitioner cannot be granted in exercise of the writ jurisdiction under Article 226 of the Constitution of India. They submit that the petitioner ought to have approached the concerned Civil Court for redressal of his grievance and for claiming compensation. They further submit that in the recent decision in ***Karnataka Power Transmission Corporation Limited v. Rekha and others,*** reported in ***2026 SCC OnLine SC 1545,*** the Hon'ble Supreme Court, vide order dated 21.08.2026, has taken a similar view and therefore, the petitioner is required to file an appropriate civil suit for claiming compensation, damages and other consequential reliefs.

4. Learned State counsel further submits that as per the FIR lodged by the brother of the injured, the allegation is against one Somitra Diwan that during the construction work, requisite precautionary measures had not been taken by the concerned person, who was taking assistance from the injured. He submits that in view of the allegations contained in the FIR also, disputed questions of fact arise for consideration and therefore, the present writ petition is not maintainable.

5. Having heard the submissions of learned counsel for the parties, perused the material available on record and considered the order passed by the Hon'ble Supreme Court in ***Karnataka Power Transmission Corporation Limited*** (supra), this Court is of the view that the petitioner ought to

approach the competent Civil Court, as the matter involves disputed questions of fact which cannot appropriately be adjudicated in the present writ petition. In this regard, the relevant observations made by the Hon'ble Supreme Court in paragraphs 6, 7 and 8 of the aforesaid judgment are as follows:

> ***"6.*** *The question of maintainability of the writ petition is no longer res-integra. Numerous judgments of this Court have delineated on this question. We may refer to one such judgment where the principles regarding maintainability have been culled out. In Radha Krishan Industries v. State of H.P. (2021) 6 SCC 771, it has been observed:*
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> *"27. The principles of law which emerge are that:*
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> *27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.*
>
> *27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.*
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> *27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.*
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> *27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.*
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> *27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of*

statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with."

These principles have been referred to with approval by a bench of three judges in T.N. Cements Corpn. Ltd. v. Unicon Engineers (2025) 4 SCC 1 where it further stood clarified that:

*"**55.** It has been well-settled through a legion of judicial pronouncements of this Court that the writ courts, despite the availability of alternative remedies, may exercise writ jurisdiction at least in three contingencies — (i) where there is a violation of principles of natural justice or fundamental rights; (ii) where an order in a proceeding is wholly without jurisdiction; or (iii) where the vires of an Act is challenged…"*

***7.** Specifically in the context of cases of electrocution, whether or not a petition under Article 226 is maintainable, is also in the realm of the well-settled law. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das (1999) 7 SCC 298, **G.T. Nanavati J.** made observations directly relevant for us:*

> *"**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."*
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> ***8.*** *What is been held here is that if questions of fact are disputed, then Article 226 would not be an appropriate remedy in cases of electrocution."*

6. So far as disputed questions of fact are concerned, this Court vide order dated 24.07.2026 passed in WPC No. 2313/2022, has held as under:

> ***"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 property 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."*
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> *(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 cannot be measurements 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."*
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> *(emphasis supplied)"*
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> ***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."*

7. In light of the aforesaid judgment passed by the Hon'ble Supreme Court, as well as the facts and circumstances of the present case, where the dispute regarding electrocution and liability is not free from dispute, invocation of writ jurisdiction in such a matter would not be appropriate, as the dispute can very well be adjudicated by the competent Civil Court. Accordingly, the present petition cannot be adjudicated under Article 226 of the Constitution of India, and the petitioner ought to approach the competent Civil Court. However, having considered the order passed by this Court on 28.02.2024 in W.P.(C) No. 2453 of 2018, wherein, while relying upon various judgments, it has been categorically held that the issues of limitation and court fee would not come in the way of filing a civil suit in a case of electrocution, the petitioner has an efficacious remedy of filing an appropriate civil suit. The relevant paragraph 7 of the aforesaid order reads as under:

> ***"7.*** *It is pertinent to mention here that in the matters of* ***Rameshwari & others Vs. Junior/Assistant Engineer & others*** *[FA No. 151 of 2023, decided on 24.01.2024] and* ***Chhattisgarh State Power Distribution Company Limited v. Smt. Hemlata Netam & others*** *[FA No. 63/2021, decided on 27.01.2022], the Hon'ble Division Bench of this Court has categorically held that issue of limitation and the Court Fees would not come in the way of filing a civil suit."*

8. It is made clear that this Court has not expressed any opinion on the merits of the case.

9. With the aforesaid observations and directions, the present petition stands disposed of.

Sd/-
(Amitendra Kishore Prasad)
Judge

Priyanka