IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

WRIT PETITION NO.768 OF 2025

Baburao Sahebrao Deshmukh, Akola
vs.
State of Maharashtra, Thr. Collector, Washim and anr.

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri M. G. Sarda, Advocate for petitioner.
Shri N. S. Rao, Assistant Government Pleader for respondent No.1.
Shri A. D. Girdekar, Advocate for respondent No.2.

CORAM : ANIL S. KILOR AND RAJ D. WAKODE, JJ.
DATED : 9th March, 2026

P. C.

The petitioner is a contractor who has carried the work of providing and installing Monorail with track, construction of platform in temple garden in Washim, has approached this Court with a grievance that despite the above referred work was completed long back, amount of Rs. 38,46,413/- has been withheld by the respondent-Municipal Council, for no valid reason.

2. It is the case of the petitioner, the work of providing and installing Monorail with track and construction of platform in temple garden in Washim was allotted to the petitioner and against the same, 10% amount of the total cost of work was deposited as security deposit out of which 2% amount was paid upfront and 8% amount was deducted from the bill amounts.

3. It is the further case of the petitioner that the Chief Officer, Municipal Council, Washim, in the letter dated

10/10/2018, stated that the work has been completed. Even this is not considered and discarded, there is a third party audit conducted wherein there is a specific mention of completion of work.

4. It is argued that as regards Item Nos.11, 12, 13 and 17 are concerned which are shown to be not completed by the petitioner, on affidavit it is stated that as per the instructions of the then Chief Officer and due to redundancy of those items at the relevant time, those works were not executed. It is pointed out that no amounts towards said work was claimed or paid to the petitioner and therefore, even the third party audit which certifies completion of work except above referred items, would not authorise and empower the Municipal Council to withheld the amount of security deposit.

5. It is further argued that as the third party audit was directed to be conducted, till the completion of such third party audit, the Municipal Council withheld Rs.25 lakh out of the running bills. It is therefore submitted that after completion of the third party audit, there is no document to show that the work awarded to the petitioner has not been completed by the petitioner.

6. On the other hand, the learned counsel for the respondent-Municipal Council argues that an enquiry is going on against the then Chief Officer and that is one reasons for withholding the amount. It is further argued that in the audit report there is a mention that the expenditure on such installation

of Monorail to the tune of Rs.1.22 lakh is an unfruitful expenditure. Thus, according to the learned counsel, audit report dated 25/07/2025 justifies the action of the Municipal Council to withhold the payment of amount of the to petitioner.

7. In the light of rival submissions, we have perused the record. It is evident that the work of providing and installing Monorail with track and construction of platform in temple garden in Washim was awarded to the petitioner on 22/09/2017. Since, the issue in respect of withholding amount of security deposit is involved in the petition, it would be appropriate to refer the relevant clause as regards withholding of security deposit or forfeiture of the same. Such clause in the agreement reads thus :

> " पार्टी नं. २ यांना काम मुदतीचे आत म्हणजे ४ महीनेचे आत पूर्ण करणे बंधनकारक राहील काम मुदतीचे आत पूर्ण न केल्यास काम पूर्ण करण्याकरीता लागणा-या पुढील कालावधी करीता निविदा प्रपत्रातील अटी नूसार दंड आकारण्यात येईल. सदर दंडाचा कालावधी जारतीत जास्त १ महिना राहील त्याउपरही काम पूर्ण न केल्यास करारनामों रद्य करण्यात येऊन सुरक्षा अनामत रक्कम जप्त करण्यात येईल. तसेच कोणतीही भाववाढ Escalation देण्यांत येणारे नाही."

8. In this case, there is no such action of forfeiture of security deposit amount has taken against the petitioner for not completion of the work in time bound period or even after imposition of penalty. Here the case is of withholding of the security deposit amount till the time third party audit is completed.

9. Perusal of record shows that third party audit was carried out by the Government Polytechnic College, Washim. The members of the Committee were Dr D. K. Gupta, Head of Civil

Engineering Dept. Shri A. D. Dhole, Lecturer, Civil Engineering Dept. and Shri V. S. Joshi, Lecturer, Civil Engineering Dept.

The conclusion of the report reads thus :

10. CONCLUSION :

1. The above said work is completed.
2. More technical supervision is required to improve the quality of work.
3. Overall quality of construction work is satisfactory as per drawing and design submitted to us by the client subject to material testing reports' veracity/accuracy & rectification/compliance as per the critical remarks.

10. Clause 9 of the report i.e. CRITICAL REMARK, more particularly Clause 9(4) states that construction of Platform for monorail (Part-C) i.e. Item Nos.11, 12, 13 and 17 not executed. However, the petitioner has filed an affidavit stating that said work was not executed because of the instructions by the then Chief Officer and the said work was directed to be not done and because of redundancy of the said work, no payment was claimed or paid to the petitioner.

11. In the circumstances, if we consider the audit report dated 25/07/2025, it is evident that it does not speak about the incompletion of work but it has mentioned that the expenses incurred on construction and installation of Monorail is found to be unfruitful. Furthermore, the third party audit report is of 16/09/2020 and after this report which certifies completion of work, there was no reason for respondent-Municipal Council to withhold the amount of Rs.25 lakh till 25/07/2025.

12. There is no reason pointed out that for these five years why the amount was kept withheld.

13. As far as inquiry of the then Chief Officer which is one of the reason cited, the same is against the Chief Officer. Here the question is if third party audit certifies completion of work with satisfaction, there is no reason to withhold the amount of security deposit and amount of Rs.25 lakh from the running bills.

14. In that view of the matter, we do not find any justifiable reason at the behest of the respondent-Municipal Corporation to withhold such amount.

15. It is to be noted that the respondent-Municipal Council is not disputing the fact that as per the running bills which were submitted by the petitioner time to time, the amount was paid to the petitioner against such running bills meaning thereby, on verification on completion of work as per the running bills, the payment was made.

16. Accordingly, the writ petition is allowed.

Respondent N.2-Municipal Council, Washim is directed to pay sum of Rs.38,46,413/- i.e. the amount of security deposit including Rs.25 lakh deducted from the running bills, along with simple interest at the rate of 6% per annum from the date such amount was due and payable to the petitioner till the date of realization.

17. Writ petition is disposed of in above terms with no order as to costs.

(Raj D. Wakode, J.) **(Anil S. Kilor, J.)**

Asmita