HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Misc. Single No.3305 of 2026

28 October, 2026

M/s Kiftpl Rail Linked Container --Petitioner

Versus

State Of Uttarakhand and Others --Respondents

Presence:-

Mr. Harsh Vardhan Dhanik, learned counsel for petitioner.

Mr. Yogesh Tiwari, learned D.A.G. for the State of Uttarakhand/respondent Nos.1, 2 and 4 to 6.

Mr. Hari Mohan Bhatia, learned counsel for respondent No.3/Uttarakhand Building and Other Construction Workers' Welfare Board.

Hon'ble Pankaj Purohit, J.

Petitioner is aggrieved by the order passed by Assistant Labour Commissioner-cum-Cess Assessor and Cess Collector, under Section 5 of the Building and Other Construction Workers' Welfare Cess Act, 1996, (hereinafter referred to as 'the Act') whereby, petitioner-Construction Company is directed to pay the penalty and labour cess.

2. Feeling aggrieved by the said order, petitioner has approached the Appellate Authority i.e. Labour Commissioner, Uttarakhand, under Section 11 of the Act by filing Appeal. A prayer has been made by petitioner for staying the operation and effect of the orders impugned passed by learned Assistant Labour Commissioner in the said Appeal.

3. It is contended by learned counsel for petitioner that due to non-availability of the Presiding

Officer i.e. Assistant Labour Commissioner-cum-Cess Assessor and Cess Collector in the office, prayer for interim relief/stay is still pending, causing hardship to petitioner, as the amount assessed in the impugned orders under Section 5 of the Act, would be recovered by respondents with penalty, despite filing the Appeal. Thus, petitioner approached this Court seeking a direction to Appellate Authority i.e. Labour Commissioner, Uttarakhand, to consider and grant the prayer for interim relief/stay to petitioner within stipulated time as prescribed by this Court.

4. Learned counsel for petitioner submits that if such a direction is issued to Appellate Authority i.e. Labour Commissioner, Uttarakhand, the grievance of petitioner would be redressed.

5. This fact is not disputed by learned counsel for State and counsel for respondent No.3-Uttarakhand Building and Other Construction Workers' Welfare Board.

6. Having considered the facts of the case as put forward in the writ petition and having gone through the impugned orders, this Court is of the view that since the Appeal is pending disposal, a direction can be issued to Appellate Authority i.e. Labour Commissioner, Uttarakhand, to consider and decide the interim relief prayer of petitioner in the Appeal expeditiously.

7. Accordingly, this writ petition is disposed of directing learned Appellate Authority i.e. Labour Commissioner, Uttarakhand, to consider and decide petitioner's interim relief prayer made in appeal as expeditious as possible but not later than seven days from today.

8. Learned counsel for respondent No.3-Uttarakhand Building and Other Construction Workers' Welfare Board made a submission before this Court that till the interim relief prayer of petitioner is considered by the Appellate Authority, no recovery shall be made from the petitioner.

9. Pending application(s), in all writ petitions, stands disposed of.

(Pankaj Purohit, J.)
28.10.2026

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