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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10025/2024**

Date of Decision: **11.02.2026**

IN THE MATTER OF:

SAI KIRAN SOCIAL WELFARE SOCIETY

.....Petitioner

Through: Mr. Ashok Kumar, Advocate

versus

DELHI METRO RAIL CORPORATION & ORS.

.....Respondents

Through: Mr. Gauravjeet Narwan with Ms. Aanchal Singh & Mr. Aamir Sheikh, Advocates.
Mr Tushar Sannu With Mr Umesh Kumar, Advocates for R3.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petition is for the following relief:

*“(1) Issue an appropriate Writ, Order or Direction to the Respondent Nos.1 and 2 to adequately compensate the petitioner/NGO for the damage of the infrastructure including computer systems installed for providing free computer education to the poor children;
(ii) Issue an appropriate Writ, Order or Direction to the Respondent No.3 to examine the construction being carried out by the Respondent Nos.1 and 2 in the area and take necessary steps to prevent further disasters in the area as provided under section 30 (2) (xxiii) of the Disaster Management Act, 2005.”*

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2. The petitioner has pleaded that in the intervening night of 27/28.06.2024, heavy rainfall took place and owing to improper road level, constructed by respondent no. 1 and 2, there was water logging, and ultimately rainwater entered the basement of a building, in which the petitioner ran its coaching centre. Thus, claiming negligence on the part of respondent no. 1 and 2, the present writ petition seeking compensation came to be filed.

3. Respondent no. 1 in its counter-affidavit, while denying allegations of negligence has pleaded that the flooding of the premises took place owing to unprecedented rainfall having taken place on the night in question. The material portion of respondent no. 1's counter affidavit reads as under:

"6. That the contents of Para 6 are wrong and denied. It is respectfully submitted that the flooding of the premises in question was an unfortunate consequence of an unprecedented rainfall event. The Indian Meteorological Department (IMD) has confirmed that the Delhi National Capital Region (NCR) experienced record-breaking rainfall in June 2024. Specifically, Safdarjung recorded a rainfall of 228.1mm, the second highest since 1936. The area surrounding IGNOU, Mehrauli, where the petitioner's center is located, also witnessed exceptionally high rainfall of 45.5mm on June 28, 2024. This extreme weather event resulted in widespread flooding and waterlogging in the area, including the petitioner's premises. It is important to note that the respondent has no control over natural phenomena such as heavy rainfall. The flooding was a direct consequence of the unprecedented rainfall and the subsequent impact on the local drainage infrastructure. Therefore, it is respectfully submitted that the claim of the Petitioner against the DMRC are without merit and should be dismissed. True Copy of the Press Release dated 28.06.2024 by India Meteorological Department, Ministry of Earth Sciences, Government of India is attached herewith and marked as ANNEXURE-R1."

4. It is, therefore, the case that while the petitioner has contended damage owing to the negligent acts of respondent no. 1, the same has been denied. In order for this Court to adjudicate upon the present writ petition,



and to grant the reliefs sought by the petitioner, a determination needs to be made as, *inter alia*, — (1) what were the acts/omissions of the respondents on the night of 27/28.06.2024; (2) whether the said acts amount to the tort of negligence; (3) whether the defence of act of God can be invoked; and (4) what are damages if any suffered by the petitioner. All of these issues, require detailed factual examinations through the means of oral and documentary evidence which the parties would lead.

5. The Supreme Court in ***SDO, Grid Corporation of Orissa Ltd. and Ors. v. Timudu Oram***,¹ held that before a writ seeking compensation for negligence could be maintained, a prior finding of negligence was required to be made by a Court of competent jurisdiction. It was further declared that an adjudication on such contested issues, cannot be made by the Court in exercise of powers conferred under Article 226 of the Constitution. The material portion of the said judgement read as under:

“2. In this batch of three appeals the question which arises for determination is as to whether the High Court was justified in exercising its power under Article 226 of the Constitution and awarding compensation to the respondent-writ petitioners even though the appellants — who were the respondent in the writ petition — had denied the liability on the ground that the deaths had not occurred as a result of their negligence but because of the negligence of the respondent themselves or of an act of God or because of an act of some other persons. These appeals were ordered to be listed along with the case of Chairman, Grid Corpn. of Orissa Ltd. (GRIDCO) v. Sukamani Das [(1999) 7 SCC 298] but were delinked as the service had not been completed on the respondent. The Bench disposed of the batch of 10 appeals and these appeals were ordered to be heard after service is complete.

...

6. In Chairman, Grid Corpn. of Orissa Ltd. (GRIDCO) [(1999) 7 SCC 298] with which case these appeals were listed for hearing but could not be heard for want of service, this Court took the view that the High Court committed an error in entertaining the writ petitions under Article 226 of

¹ (2005) 6 SCC 156.



the Constitution and were not fit cases for exercising the jurisdiction under Article 226 of the Constitution. It was held that actions in tort and negligence were required to be established initially by the claimants. The mere fact that the wire of electric transmission line belonging to the appellants had snapped and the deceased had come into contact with it and died by itself was not sufficient for awarding compensation. The Court was required to examine as to whether the wire had snapped as a result of any negligence on the part of the appellants, as a result of which the deceased had come in contact with the wire. In view of the defence raised and the denial by the appellants in each of the cases, the appellants deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission line and yet the wires had snapped because of the circumstances beyond their control or unauthorised intervention of third parties. Such disputed questions of fact could not be decided in exercise of jurisdiction under Article 226 of the Constitution. That the High Court could not come to the conclusion that the defence raised by the appellants had been raised only for the sake of it and there was no substance in it. In para 6 it was observed thus: (SCC pp. 301-02)

“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

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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.””

6. Further, in **Radha Krishnan Industries v. State of Himachal Pradesh**² the Supreme Court re-iterated the discretion available with the writ court to decline exercise of its powers when disputed questions of facts are involved. The material portion of the judgement reads as under

“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.”

7. This Court in **IDBI Bank Ltd. v. Power Finance Corporation Ltd.**³ while analysing the impermissibility of entertaining writs which have their origin in private and not public law has held as under:

“26. Each of the issues so mentioned above, fall exclusively in the domain of private law and are fundamentally contractual in nature. There is no element of public law that this court finds involved in the present petition. The mere fact that the parties engaging in the contract are State or its instrumentalities, does not in itself make the issue relevant to public law. There is no determination of the rights relating to public law, nor is there a consideration relating to the public at large that needs to be factored in while deciding the dispute so argued by the parties. Issuance of the BGs by the petitioner at the instance of respondent no. 2 in the favour of respondent no. 3 and its encashment is purely governed by the terms of the BGs. The same is the commercial wisdom of the parties. It concerns the legal relationship between the parties involved, namely, the bank and the beneficiary of the guarantee. The enforcement is not the result of any administrative order or State act involving the exercise of State power.

...
35. This court cannot countenance the argument that, whereas, otherwise, a dispute owing to its private law origins ought to have been agitated before a civil court, merely because the entity so breaching the contract is a State or its functionary, the case is to be considered under Article 226 of the

² (2021) 6 SCC 771.

³ 2023 SCC OnLine Del 2909.



Constitution of India. Arbitrariness, under Article 14 of the Constitution of India needs to be pleaded in exclusion to claims of pure breach of contract. In the present petition, the petitioner has not been able to persuade this court that the breach so alleged on the part of respondents is of such a nature that it may be considered arbitrary and deserves to be entertained under the writ jurisdiction of this court alone.”

8. Thus, in light of the facts and circumstances of the case, and the law discussed above, this Court finds that a substantive adjudication of the *lis* between the parties would require oral and documentary evidence to be adduced, and such an exercise cannot be undertaken by this Court under Article 226 of the Constitution.

9. Accordingly, while granting liberty in favour of the petitioner to take appropriate steps in accordance with law, the present petition stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

FEBRUARY 11, 2026

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