



**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE G. S. AHLUWALIA  
ON THE 15<sup>th</sup> OF OCTOBER, 2024  
WRIT PETITION No. 30229 of 2024**

***SMT. RAJKUMARI  
Versus  
THE STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

***Shri Rahul Kumar Tripathi- Advocate for petitioner.***

***Shri Dilip Parihar- Panel Lawyer for the respondents/State.***

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**ORDER**

This petition under Article 226 of Constitution of India has been filed seeking the following reliefs:-

“(I) That this Hon’ble Court may kindly be pleased to issue writ in the nature of mandamus to direct the respondent no. 3/C.E.O. Jila Panchayat Niwadi, Distt. Niwadi (M.P.) to decide the representation (Annexure P-3) of the petitioner.

(II) That this Hon’ble Court may kindly be pleased to issue writ in the nature of Mandamus to direct the respondent authorities to release the stopped payment of the work done in gram panchayat Dhawabangra, Distt. Niwadi (M.P.) by the petitioner in the interest of justice.

(III) Any other relief/order/direction/prod which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case, may also kindly be granted to the petitioner along with cost of entire litigation.”

2. It is submitted by counsel for petitioner that she is the Ex-Sarpanch of Gram Panchayat Dhawabangra, District Niwadi and during



her tenure the construction of sewage system and interlocking of paver was done as per the norms of State Government under MANREGA scheme but Collector, Niwadi by order dated 16.12.2021 has issued a letter to conduct an enquiry in to the irregularities and funds in the construction work of Gram Panchayat, Niwadi, District Niwadi. Accordingly, a committee was constituted to submit its report on 11.01.2022. It was found that out of 297 works in the District Niwadi only 54 works were completed and accordingly, grave financial irregularities were committed. It is submitted that the petitioner has given several representations to respondent No. 2 for payment of dues for work done during the tenure of the petitioner but neither the dues have been paid nor the representations of the petitioner have been decided.

3. Heard learned counsel for petitioner.
4. The petitioner is Ex-Sarpanch. How she can file such a writ petition for payment of dues which according to her are payable to contractors?
5. Furthermore, it is a clear case where the construction of work is under dispute. A writ petition for payment of outstanding amount is maintainable only when the liability is accepted and a writ petition for specific performance of contract is not maintainable.
6. The Supreme Court in the case of **M.P. Power Management Company Limited, Jabalpur Vs. Sky Power Southeast Solar India Private Limited and Others** reported in (2023) 2 SCC 703 has held that if there is a serious and genuine dispute relating to the liability of the State to make payment, then petition is not maintainable and the disputed question of fact cannot be made a smokescreen to guillotine a



genuine claim raised in a writ petition.

7. The Supreme Court in the case of **Surjeet Singh Sahni Vs. State of U.P. and others** reported in **2022 (4) SCALE 280** has held that no writ petition under Article 226 of the Constitution of India is maintainable for specific performance of contract. Similar law has been laid down by the Supreme Court in the case of the **Noble Resources Ltd. v. State of Orissa and Another** reported in **(2006) 10 SCC 236**, **Municipal Council Gondia Vs. Divi Works and Suppliers, HUF and others** reported in **2022 3 JT 52** and in the case of **Jayakantham and others Vs. Abaykumar** reported in **(2017) 5 SCC 178**.

8. The Supreme Court in the case of **Union of India and Others Vs. Puna Hinda** reported in **(2021) 10 SCC 690** has held that although the jurisdiction of the High Court is wide but in respect of pure contractual matters in field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties

9. In view of the fact that the disputed questions of fact are involved in the present case, accordingly, no case is made out warranting any direction to the Collector, Niwadi to decide the representations.

10. Accordingly, the aggrieved persons can file a civil suit for recovery of dues.

11. The petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)  
JUDGE

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