Reserved on 05.10.2026
Delivered on 13.10.2026

2026:AHC:214270-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 28222 of 2022

M/s Purv Sainik Security Service

…..Petitioner(s)

Versus

State of U.P. and 4 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Arvind Srivastava Iii
Counsel for Respondent(s)	:	CSC, Ganesh Datt Mishra

A.F.R.

Court No. - 5

HON'BLE PRAKASH PADIA, J.
HON'BLE INDRAJEET SHUKLA, J.

Per: **Indrajeet Shukla, J.**

1. Heard Sri Arvind Srivastava along with Ms. Vaishnavi Tripathi, learned counsel for the petitioner and Sri Ganesh Dutt Mishra, learned counsel for the contesting respondents.

2. At the very outset Counsel for the respondents raised a preliminary objection with respect to to maintainability as well as entertainability of this writ petition, since the subject matter relates to payment of contractual dues.

3. The issues in twin fold arise for our determination viz:

(i) Whether the respondents can be permitted to withhold the admitted contractual dues, payable to the petitioner on the ground of paucity of funds, financial constraints or administrative difficulties?

(ii) Whether a writ petition under Article 226 of the Constitution of India, praying for payment of admitted contractual dues, is maintainable and if yes when it becomes entertainable, notwithstanding the contractual nature of the dispute and the availability of an alternative remedy?

4. We shall proceed to examine the aforesaid issues in the light of the settled legal principles and the facts and circumstances of the present case.

5. We would like to survey and be enlightened by various authorities expounded by the Supreme Court as well as this Court qua maintainability vis-à-vis entertainability of writ petition for monetary claims in dispute arises out of contract.

6. Before proceeding for appreciation of facts, we may examine the various authorities governing the field of maintainability of a writ petition, seeking payment of contractual dues, it would be apposite to notice the distinction between the concepts of maintainability and entertainability, as explained by the Supreme Court in **Godrej Sara Lee Ltd.vs. Excise and Taxation Officer-cum-Assessing Authority and others, 2023 SCC OnLine SC 95**, wherein it has been held that the distinction between ‘maintainability’ and ‘entertainability’ of a writ petition, particularly in cases involving the availability of an alternative remedy. The relevant excerpts are reproduced hereinbelow:

> *"4. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by Article 226 of the Constitution having come across certain orders passed by the high courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. The power to issue prerogative writs under Article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to Article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner,*

yet, the mere fact that the petitioner before the high court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the high courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under Article 226 that has evolved through judicial precedents is that the high courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the high court under Article 226 has not pursued, would not oust the jurisdiction of the high court and render a writ petition "not maintainable". In a long line of decisions, this Court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the "maintainability" of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law.

Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the high courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a high court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a high court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.

*5. **A little after the dawn of the Constitution, a Constitution Bench of this Court in its decision reported in 1958 SCR 595 (State of Uttar Pradesh v. Mohd. Nooh)** had the occasion to observe as follows:*

*"10. In the next place it must be borne in mind that there is no rule, with regard to certiorari as there is with mandamus, that it will lie only where there is no other equally effective remedy. It is well established that, provided the requisite grounds exist, **Certiorari will lie although a right of appeal has been conferred by statute,** (Halsbury's Laws of England, 3rd Edn., Vol. 11, p. 130 and the cases cited there). The fact that the aggrieved party has another and adequate remedy may be taken into consideration by the superior court in arriving at a conclusion as to whether it should, in exercise of its discretion, issue a writ of Certiorari to quash the proceedings and decisions of inferior courts subordinate to it and ordinarily the superior court will decline to interfere until the*

aggrieved party has exhausted his other statutory remedies, if any. But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of Certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies.

6. At the end of the last century, this Court in paragraph 15 of the its decision reported in (1998) 8 SCC 1 (Whirlpool Corporation v. Registrar of Trade Marks, Mumbai) carved out the exceptions on the existence whereof a Writ Court would be justified in entertaining a writ petition despite the party approaching it not having availed the alternative remedy provided by the statute. The same read as under:

(i) where the writ petition seeks enforcement of any of the fundamental rights;
(ii) where there is violation of principles of natural justice;
(iii) where the order or the proceedings are wholly without jurisdiction; or
(iv) where the vires of an Act is challenged.

7. Not too long ago, this Court in its decision reported in 2021 SCC OnLine SC 884 (Assistant Commissioner of State Tax v. Commercial Steel Limited) has reiterated the same principles in paragraph 11.

8. That apart, we may also usefully refer to the decisions of this Court reported in (1977) 2 SCC 724 (State of Uttar Pradesh v. Indian Hume Pipe Co. Ltd.) and (2000) 10 SCC 482 (Union of India v. State of Haryana). What appears on a plain reading of the former decision is that whether a certain item falls within an entry in a sales tax statute, raises a pure question of law and if investigation into facts is unnecessary, the high court could entertain a writ petition in its discretion even though the alternative remedy was not availed of; and, unless exercise of discretion is shown to be unreasonable or perverse, this Court would not interfere. In the latter decision, this Court found the issue raised by the appellant to be pristinely legal requiring determination by the high court without putting the appellant through the mill of statutory appeals in the hierarchy. What follows from the said decisions is that ***where the controversy is a purely legal one and it does not involve disputed questions of fact but only questions of law, then it should be decided by the high court instead of dismissing the writ petition on the ground of an alternative remedy being available."***

(Emphasis by us)

7. Prior to the decision of the Apex Court in **Godrej Sara Lee Ltd.** *(supra),* the same legal position had been explained and reiterated by the Hon'ble Supreme Court in **M/s Radha Krishan Industries v. State of**

Himachal Pradesh and Others, (2021) 6 SCC 771, The relevant excerpts from the judgment are reproduced hereinbelow:

> *"24. The High Court has dealt with the maintainability of the petition under Article 226 of the Constitution. Relying on the decision of this Court in CCT v. Glaxo Smith Kline Consumer Health Care Ltd. [CCT v. Glaxo Smith Kline Consumer Health Care Ltd., (2020) 19 SCC 681 : 2020 SCC OnLine SC 440] , the High Court noted that although it can entertain a petition under Article 226 of the Constitution, it must not do so when the aggrieved person has an effective alternate remedy available in law. However, certain exceptions to this "rule of alternate remedy" include where, the statutory authority has not acted in accordance with the provisions of the law or acted in defiance of the fundamental principles of judicial procedure; or has resorted to invoke provisions, which are repealed; or where an order has been passed in violation of the principles of natural justice. Applying this formulation, the High Court noted that the appellant has an alternate remedy available under the GST Act and thus, the petition was not maintainable.*
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> ***25. In this background, it becomes necessary for this Court, to dwell on the "rule of alternate remedy" and its judicial exposition. In Whirlpool Corpn. v. Registrar of Trade Marks [Whirlpool Corpn. v. Registrar of Trade Marks, (1998) 8 SCC 1] , a two-Judge Bench of this Court after reviewing the case law on this point, noted : (SCC pp. 9-10, paras 14-15) "14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".***
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> *15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."*
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> *26. Following the dictum of this Court in Whirlpool (supra) , in Harbanslal Sahnia v. Indian Oil Corpn. Ltd., this Court noted that :*

"7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies : (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See Whirlpool Corpn.v. Registrar of Trade Marks [Whirlpool Corpn. v. Registrar of Trade Marks, (1998) 8 SCC 1] .) The present case attracts applicability of the first two contingencies. Moreover, as noted, the appellants' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings."

27. The principles of law which emerge are that:

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.

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.

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.

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.

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.

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."***
>
> *(emphasis supplied)*

8. In **Dr. Ram Manohar Lohia Institute of Medical Sciences, Lucknow through Director and Others v. Dr. Charu Mahajan and Others, 2023 SCC OnLine All 3150,** this Court, while considering the distinction between maintainability and entertainability of a writ petition under Article 226 of the Constitution of India, held that the mere availability of an alternative statutory remedy does not, by itself, render a writ petition not maintainable or oust the jurisdiction of the High Court. The relevant excerpts are reproduced hereinbelow:

> *"23. There cannot be any quarrel on the legal proposition that exercise of jurisdiction under Article 226 of the Constitution of India by the High Courts is discretionary. There is also no dispute to the legal principle that availability of alternative remedy provided by the relevant statute is not an absolute bar to entertain a writ petition; rather the High Court has discretion whether to entertain the writ petition or not bearing in mind the facts of the case being brought before the Court. One of the self- imposed restrictions on entertaining a writ petition is that this Court should not normally entertain the writ petition where effective and efficacious alternative remedy is available, however, simultaneously it should also be borne in mind that mere availability of an alternative remedy not exhausted by the party approaching this Court invoking writ jurisdiction, does not oust the jurisdiction of the Court that will render a writ petition not maintainable."*

9. Having delineated the distinction between the concepts of maintainability and entertainability of a writ petition under Article 226 of the Constitution of India, and the principles governing the exercise of writ jurisdiction in the presence of an alternative remedy, we now proceed to examine the judicial precedents specifically dealing with the enforcement of contractual obligations and the recovery of monetary claim through writ proceedings.

10. The Supreme Court in **State of U.P. v. Bridge & Roof Co. (India) Ltd., (1996) 6 SCC 22,** has authoritatively held that seriously disputed questions of fact concerning breach of contract and the consequential monetary claims arising therefrom are, ordinarily, not amenable to adjudication under Article 226 of the Constitution of India, and the parties

ought to be relegated to ordinary jurisdiction of civil court by way of a properly instituted civil suit where evidence can be led.

11. In **Hindustan Petroleum Corporation Limited and another v. Dolly Das, (1999) 4 SCC 450**, the Supreme Court has held that, in the absence of any statutory or constitutional right, a writ petition under Article 226 of the Constitution, ordinarily cannot be invoked for enforcement of a purely contractual obligation or for recovery of money arising out of a contract.

> *"In the absence of Constitutional or statutory rights being involved a writ proceeding would not lie to enforce contractual obligations even if it is sought to be enforced against the State or to avoid contractual liability arising thereto. In the absence of any statutory right Article 226 cannot be availed to claim any money in respect of breach of contract or tort or otherwise…"*

12. This very proposition was reiterated and applied by the Supreme Court in **Kerala State Electricity Board v. Kurien E. Kalathil, (2000) 6 SCC 293,** wherein it was authoritatively held that "whether any amount is due and if so, how much, and refusal of the appellant to pay it is justified or not, are not the matters which could have been agitated and decided in a writ petition" and that the contractor concerned ought to have been relegated to other efficacious remedies.

13. An analogous issue arose before Division Bench of this Court in the case of **M/s Amit Traders and another Vs. State of U.P. and another Neutral Citation No. - 2019:AHC:178496-DB.** The Division Bench has held that a mandamus sought by petitioner is nothing but the grant of a money decree in the extraordinary equitable jurisdiction under Article 226 of the Constitution of India, which cannot be granted. The relevant paragraphs of said judgement are extracted as under:

> *"5. In Kerala State Electricity Board and another Vs. Kurien E. Kalathil and others 2000 (6) SCC 293, Court said that interpretation and implementation of a clause in a contract cannot be subject-matter of a writ petition. Whether a contract envisages actual payment or not is a question of construction of contract. If a term of contract is violated, ordinarily remedy is not the writ petition under Article 226. A contract would not become statutory simply because it is for construction of a public utility and it has been awarded by a statutory body. A statute may*

expressly or impliedly confer power on a statutory body to enter into contracts in order to enable it to discharge its functions. Disputes arising out of the terms of such contracts or alleged breaches have to be settled by the ordinary principles of law of contract. The fact that one of the parties to the agreement is a statutory or public body will not by itself affect the principles to be applied. The disputes about the meaning of a covenant in a contract or its enforceability have to be determined according to the usual principles of the Contract Act. Every act of a statutory body need not necessarily involve an exercise of statutory power. Statutory bodies have power to contract or deal with property like private parties. Such activities may not raise any issue of public law. When it is not shown that contract is statutory and parties are within the realm of their authority, contract between the parties is in the realm of private law. The disputes relating to interpretation of terms and conditions of such contract cannot be agitated in a petition under Article 226 of the Constitution. The Court further said:

> *"That is a matter for adjudication by a civil court or in arbitration if provided for in the contract. Whether any amount is due and if so, how much and refusal of the appellant to pay it is justified or not, are not the matters which could have been agitated and decided in a writ petition."*

6. Following the above authorities, a Division Bench of this Court in M/S Prabhu Construction Company through its Proprietor Vs. State of U.P. and another (Writ C No. 25075 of 2014) decided on 05.05.2014 said as under:

> *"In the present case, there is nothing on the record which may persuade us to hold that the contract is a statutory contract. The remedy of the contractor, if he is aggrieved by non-payment, would be to either file an ordinary civil suit or if there is an arbitration agreement between the parties, to invoke the terms of the agreement."*

9. The same view has been reiterated in M/S Goyal Stationary Mart through its Proprietor State of U.P. (Misc. Bench No. 10971 of 2015) decided on 27.11.2015, Budh Gramin Sansthan Vs. State of U.P. 2014 (7) ADJ 29, Kaka Advertising Agency Vs. U.P. Technical University and others 2014 (11) ADJ 227, M/s A.K. Constructions Vs. State of U.P. and others (Misc. Bench No. 1909 of 2014) decided on 07.03.2014, Major Travels through Proprietor Vs. State of U.P. and others (Misc. Bench No. 3472 of 2014) decided on 25.04.2014 and Uttaranchal Paper Converters and Publishers through Proprietor Vs. State of U.P. and others (Misc. Bench No. 3898 of 2015) decided on 13.05.2014.

10. The question as to whether in writ jurisdiction under Article 226 of Constitution this Court should entertain writ petitions seeking a

mandamus for payment of contractual amount like a decree for recovery of money, repeatedly it has been held that such writ petition should not be entertained and parties must be relegated to avail remedies in common law.

11. Following the above authorities, a Division Bench of this Court presided by me has also taken same view in Writ Petition (Writ-C) No. 42697 of 2002 (M/S Jai Goswami Electric Works Alld. Vs. Union Of India through' D.R.M. and Others) decided on 19.05.2016.

14. In the case of **M/s Alaska Tech through its Partner Sanjeet Singh and another Vs. State of U.P. through Principal Secretary Urban Development and others 2014 SCC OnLine All 6484**, this Court has held:-

"At the outset, a preliminary objection was raised by the learned Standing Counsel appearing on behalf of the respondents to the maintainability of this petition under Article 226 of the Constitution. We are of the view that, in a matter of this nature which pertains to alleged non-payment of dues under a contract for supply of goods, it would neither be prudent nor judicious for this Court, in exercise of its jurisdiction under Article 226 of the Constitution, to grant relief, which is in substance, is a prayer for a money decree. These matters, it must be emphasized, are not those relating to statutory contracts but are purely non-statutory contracts. ***Whether work has been satisfactorily performed, whether the rates which had been quoted are in accordance with the terms of the contract, whether the goods were of a quality as mandated, and above all, whether the claim is within limitation or otherwise, are issues which cannot appropriately be adjudicated upon under Article 226 of the Constitution. Increasingly, in cases like the one in hand, instead of taking recourse to the jurisdiction of the ordinary civil court under Section 9 of the Code of Civil Procedure Code, 1908, recourse is taken to the writ jurisdiction under Article 226. That is not permissible. The jurisdiction of the Civil Court is intended to provide the ordinary civil remedy for the adjudication of such claims.*** *As a matter of fact, we also indicated to the learned counsel that even within the purview of the Civil Procedure Code, provisions such as those under Order 37 of the C.P.C. contain an adequate safeguard by laying down a summary remedy or procedure which can be availed of in cases where under a written contract, money is due and payable. Under Order 37, the defendant has to make out a triable defence before being granted even leave to defend the suit. Hence, in the present case, we see no reason or justification to entertain the petition under Article 226 of the Constitution."*

(emphasis by us)

15. The Supreme Court in **ABL International Ltd. v. Export Credit Guarantee Corporation of India Ltd. (2004) 3 SCC 553;** while surveying

the earlier line of authorities including Bridge & Roof case (supra) and Gunwant Kaur v. Municipal Committee, Bhatinda, reported in (1969) 3 SCC 769; **culled out the guiding principles governing the maintainability of a writ petition arising out of a contractual or quasi-contractual matter, and held, inter-alia, that (a) a writ petition against the State or its instrumentality arising out of a contractual obligation is maintainable in an appropriate case; (b) the mere existence of disputed questions of fact cannot, as a matter of rule, be a ground to refuse to entertain a writ petition; and (c) a writ petition involving a consequential relief of monetary claim is also maintainable. At the same time, the Court was equally categorical in cautioning that where the petition raises questions of fact of a complex nature which, for their determination, require oral evidence to be taken, and on that account the High Court is of the view that the dispute may not appropriately be tried in a writ petition, the High Court would be justified in declining to entertain such a petition. The relevant excrepts are reproduced hereinbelow:**

> *"From the above discussion of ours, following legal principles emerge as to the maintainability of a writ petition :-*
>
> *(a) In an appropriate case, a writ petition as against a State or an instrumentality of a State arising out of a contractual obligation is maintainable.*
>
> *(b) Merely because some disputed questions of facts arise for consideration, same cannot be a ground to refuse to entertain a writ petition in all cases as a matter of rule.*
>
> *(c) A writ petition involving a consequential relief of monetary claim is also maintainable."*

16. This Court entertained Writ-C No.6580 of 2022 following the guidelines and principles of the Supreme Court rendered in **ABL International Ltd. and Another v. Export Credit Guarantee Corporation of India Ltd. and Others, (2004) 3 SCC 553,** since, there the dues were admitted and not being paid only on the ground that the officers, who were responsible for embezzlement of the farmer's money in lieu of supply of paddy had not refunded the money and the money could not be recovered from them.

17. The aforesaid principle of entertainability of writ qua admitted dues finds further support from the judgment of this Court in **Kanika Construction Vs. State of U.P. and 3 others, 2022 SCC OnLine All 30**, wherein this Court, after considering the law relating to maintainability of a writ petition for enforcement of contractual monetary claims, held that there is no absolute bar to the exercise of jurisdiction under Article 226 of the Constitution in such matters, particularly where the amount due is admitted and no disputed question of fact requiring detailed adjudication arises. The relevant excrepts are reproduced hereinbelow:

> *"8. The question whether a writ petition under Article 226 of the Constitution of India is maintainable to enforce a contractual obligation against the State or its instrumentalities, by a aggrieved party, is no longer res integra. The law with regard to the maintainability of a writ petition in contractual matters is fairly well settled. It has been consistently held that there is no absolute bar to the maintainability of a writ petition in such matters. The discretionary jurisdiction under Article 226 of the Constitution of India may, however, be refused in case of money claims arising out of purely contractual obligations where there are serious disputed questions of fact with regard to the claims sought to be raised.*
>
> *9. The legal position with regard to entertainability of a writ petition in contractual matters where monetary claims are sought to be raised has been considered in extenso in a recent decision of this court in M/S Bio Tech Systems vs. State of U.P. and Ors.1 and it was held that in a case where the contract entered into between the State and the person aggrieved is of a non-statutory character and the relationship is governed purely in terms of a contract between the parties, in such situations the contractual obligations are matters of private law and a writ would not lie to enforce a civil liability arising purely out of a contract, and the proper remedy in such cases would be to file a civil suit for claiming damages, injunctions or specific performance or such appropriate reliefs in a civil court.*
>
> *10. While stating the aforementioned broad proposition of law in M/S Bio Tech Systems (supra), it was also added that it cannot be held in absolute terms that a writ petition is not maintainable in all contractual matters seeking enforcement of obligations on part of the State or its authorities. The limitation in exercising powers under Article 226 in contractual matters is essentially a self-imposed restriction. A case where the amount is admitted and there is no disputed question of fact requiring adjudication of detailed evidence and interpretation of the terms of the contract, may be an exception to the aforementioned general principle.*
>
> *11. In a given set of facts, where the State or its instrumentalities are parties to a contract, they would be under an obligation in law to act fairly,*

justly and reasonably, which is the requirement under Article 14 of the Constitution of India. In such a situation where the instrumentalities of the State act unfairly, unjustifiably, unreasonably or arbitrarily in discharge of contractual obligations, the same would be held to be violative of the constitutional guarantee embedded in Article 14 and the aggrieved party cannot be precluded from invoking the writ jurisdiction under Article 226 of the Constitution of India nor the court would be denuded of its power of granting proper reliefs.

12. While considering the question with regard to maintainability of a writ petition in such matters, it was held in ABL International Ltd. And Another vs. Export Credit Guarantee Corporation of India Ltd. And Others that in appropriate cases, not only a writ petition against a State or instrumentality of State arising out of contractual obligation would be maintainable but the consequential relief of monetary claim would also be entertainable.

13. In the case at hand, it is evident that there is no dispute relating to the amount due and payable to the petitioner. The instructions received by the learned Standing Counsel clearly indicate that the balance amount has not been paid for the reason that necessary funds have not been made available by the State Government so far."

(Emphasis added)

18. The question as to whether a writ petition under Article 226 of the Constitution of India would lie for enforcement of a monetary claim arising out of a civil contract need not detain this Court any further. The Supreme Court, in **M/s Utkal Highways Engineer and Contractors v. Chief General Manager**, **2025 SCC OnLine SC 1400**. The relevant excerpts are reproduced hereinbelow:

"8. Be that as it may, the High Court has not dealt with the merits of the writ petition. Moreover, it is not an inviolable rule that no money claim can be adjudicated upon in exercise of writ jurisdiction. Non-payment of admitted dues, inter alia, may be considered an arbitrary action on the part of respondents and for claiming the same, a writ petition may lie. 1 Further, throwing a writ petition on ground of availability of alternative remedy after 10 years, particularly, when parties have exchanged their affidavits, is not the correct course unless there are disputed questions of fact which by their very nature cannot be adjudicated upon without recording formal evidence."

19. In The aforesaid principle has been reiterated by this Court in **M/s Jaiswal Foods through its Proprietor Sudheer Jaiswal v. State of U.P. through Additional Chief Secretary, Department of Basic Education, Government of U.P., Lucknow and others, 2026 SCC OnLine All 27098,**

wherein, while considering the scope of interference under Article 226 of the Constitution in respect of monetary claims, this Court distinguished between a disputed claim requiring adjudication of facts and an amount which stands admitted by the respondent authorities themselves. The relevant excerpts are reproduced hereinbelow:

> *"32. While the High Court under Article 226 of the Constitution of India may, in appropriate cases, issue directions for payment of admitted dues, it will not ordinarily convert itself into a Court of first instance for quantification of disputed claims involving examination of bills, work orders, measurement books, and field verification reports. Where the competent departmental authorities have already undertaken verification at the ground level and have released payment on that basis, the writ Court would be slow to re-appreciate the entire evidence and substitute its own assessment of quantum; such verification can well be tested in a civil suit by leading evidence, and cannot be adjudicated summarily in these writ proceedings. Although the decision in M/s Utkal Highways case (supra) has clarified that the bar against entertaining money claims is not absolute where non-payment of admitted dues is arbitrary, the present case falls in a materially different category, for the quantum itself remains genuinely contested at multiple levels, and the departmental authorities have, in the interregnum, conducted a fresh verification and assert discharge of the verified liability. This Court, in the exercise of its writ jurisdiction, cannot embark upon a roving inquiry into the correctness of every entry in the GeM invoices or the Block-Level verification reports, an exercise squarely within the domain of a civil Court.*
>
> *33. The petitioner's reliance on the order of this Court passed in Shraddha Printers case (supra) is also of limited assistance. That order was passed in a situation where liability was admitted by the Director and the only impediment was non-availability of budget. In the present case, after the earlier directions of this Court, a fresh verification exercise has been carried out and the respondents assert that the verified dues have been paid and there is no outstanding amount. Thus, the two situations are not identical, and the ratio of Shraddha Printers case (supra), being confined to cases of admitted liability withheld for want of budgetary sanction, cannot be extended to a case such as the present one, where the very quantum of liability remains in serious dispute.*
>
> *34. The principle that a person deprived of the use of money is entitled to interest, as explained in G.C. Roy (supra) and Dr. Poornima Advani (supra), comes into play only when the quantum of the principal amount is first established as due and payable; the entitlement to interest is parasitic upon, and cannot precede, a firm determination of the principal sum. Whereas, here, the principal amount itself remains disputed and has not crystallized, and where the department claims that the verified amount has already been paid and no amount is payable, the question of awarding interest on a higher, unverified and fluctuating sum does not*

arise, and cannot be granted merely on the strength of the petitioner's own unilateral computation."

20. It has been the consistent view of this Court as well as the Supreme Court that no interference can be made made under Article 226 of the Constitution of India, where a disputed question of fact is raised. The High Court in exercise of jurisdiction under Article 226 of the Constitution of India, would ordinarily not adjudicate a matter where the foundational facts are disputed. (see: **Subhashree Das @ Mili Panda & Others vs State of Orissa, 2012 (9) SCC 729).**

21. Though it may not be possible to lay down all possible channelized circumstances or to prescribe inflexible guidelines or rigid formulae, or to provide an exhaustive list of myriad kinds of circumstances in which writ jurisdiction may or may not be exercised qua contractual obligations, a few illustrative circumstances may briefly be culled out as follows:

(I) The existence of a contractual relationship, by itself, does not oust the writ jurisdiction of the High Court, nor does the consequential nature of the monetary relief claim render the petition inherently not maintainable.

(II) Maintainability and entertainability are distinct concepts, the former concerning the Court's jurisdiction to receive and adjudicate the *lis*, and the latter involving the exercise of its discretionary writ jurisdiction in the facts and circumstances of the case.

(III) Although the availability of an efficacious alternative remedy, including arbitration or a civil remedy, is ordinarily a relevant consideration against entertaining a writ petition, it does not constitute an absolute bar in law.

(IV) Where the State or its instrumentality has admitted the liability, but withholds payment without any legally sustainable justification, particularly on the ground of paucity of funds or administrative constraints, the writ Court may exercise its jurisdiction to secure payment of such dues.

(V) The mere existence of some disputed questions of fact does not invariably preclude the exercise of writ jurisdiction; what is material is whether the controversy can be resolved on the basis of the pleadings and the material on record, without undertaking a detailed evidentiary exercise or a roving inquiry by leading oral and documentary evidence.

(VI) Conversely, where the very existence or quantum of liability is genuinely disputed and its determination necessitates detailed examination of evidence, interpretation of contested contractual terms, or oral evidence, the Court may, in the exercise of its discretion, decline to entertain the petition and relegate the parties to the appropriate alternative remedy, including arbitration proceedings, if any or relegating to ordinary jurisdiction of the civil court.

(VII) Thus, the decisive consideration in a petition seeking recovery of contractual dues is not merely the contractual origin of the claim, but the nature of the controversy, the extent to which the liability stands established or admitted, and whether the relief sought can appropriately be granted in the exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India.

22. The writ petition against contractual dues is maintainable as well as entertainable only when the contractual dues are admitted and the factual foundation are not so disputed that any roving inquiry is expedient.

23. We are conscious of the fact, that every writ petition seeking payment of contractual dues cannot be thrown out and can very well be entertained against the State and its instrumentalities if the amount of money due under contract is admitted and no inquiry is required to ascertain the facts. But, where facts are so disputed that adjudication without leading evidences by rival parties is not feasible, this Court must lay its hands off while exercising our writ jurisdiction.

24. Having noticed the aforesaid legal position governing the maintainability and entertainability of a writ petition for enforcement of contractual dues, we now proceed to examine the factual foundation of

the present case, the respective pleadings and submissions of the parties, and the material brought on record, in order to determine whether the claim raised by the petitioner falls within the aforesaid parameters and warrants exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India.

25. The jurisdiction of this Court under Article 226 of the Constitution of India has been invoked by the petitioner seeking the following relief:

> *"a) issue a writ, order or direction the including a writ in the nature of MANDAMUS commanding the respondent no.4 & 5 to make the payment of the admitted and undisputed amount of Rs.18,59,197.02/- due upon the petitioners' firm for rendering security services for a period from 01.10.2018 to 31.05.2021 as well as security money deposited by the petitioner amounting Rs.20,000/- by way of fixed deposit in the name of respondent no.5 along with interest paid by the bank."*

26. The facts, in brief, for a better appreciation of the controversy in question may be recapitulated as under:

26.1. The petitioner claims to be a registered partnership firm having two partners, namely, Sri Jageshwar Singh Yadav and Sri Sushil Yadav. The petitioner deals with tender works issued by various Government Departments. Respondent no.5/Firozabad Dugdha Utpadak Sahkari Sangh Limited, Bandukatra, Gwalior Road, Agra, is a state instrumentality under the control of the State Government through respondent no.2, namely, Pradeshik Co-operative Dairy Federation Limited. Respondent no.5 is a State instrumentality within the meaning of Article 12 of the Constitution of India, and the State Government exercises pervasive control over its functioning.

26.2. Respondent No. 5 issued a tender for providing security services at certain units functioning under Firozabad Dugdha Utpadak Sahkari Sangh Limited in the year 2018. The said tender notice was published through the Government portal, namely, the e-Procurement System of the Government of Uttar Pradesh. The petitioner participated in the bidding process and, being the lowest bidder (L-1), was awarded the tender for the period from 16.10.2018 to 30.09.2019.

26.3. The petitioner-firm supplied manpower for the period stipulated in the tender at the request of respondent No. 5. Thereafter, the tender awarded to the petitioner-firm was renewed from time to time and continued up to 31.05.2021. After 31.05.2021, the petitioner-firm was replaced by M/s Bharat Security Service and House Keeping. After engagement of the new firm, the charge of security was handed over to the said entity.

27. The pleaded case of the petitioner is that the amount payable under the contract was received in the account of the petitioner-firm from time to time through the Government Treasury, Uttar Pradesh, and there was no dispute in this regard until 09.01.2022. However, the petitioner's contract was thereafter terminated without liquidating the outstanding dues. In order to establish the financial transactions pertaining to payment of the contractual dues, the petitioner has placed on record the statement of account for the period from 01.04.2021 to 31.03.2022, annexed as Annexure No. 5 to the writ petition, which evidences the transactions in question.

28. After termination of the petitioner's contract, the petitioner-firm, vide letter dated 06.08.2021, demanded payment of the remaining outstanding dues; however, the said demand yielded no result. The demand letter dated 06.08.2021, whereby a sum of Rs. 5 lakhs was demanded, has been filed as Annexure No. 6 to the writ petition. As the remaining dues of the petitioner were still not paid, the petitioner made a further request vide letter dated 15.07.2022, seeking liquidation of the outstanding amount of Rs. 19 lakhs.

29. In response thereto, the office of Pradeshik Co-operative Dairy Federation Limited issued a letter dated 18.07.2022, requesting respondent No. 5, namely, Firozabad Dugdha Utpadak Sahkari Sangh Limited, to ensure payment of the outstanding dues to the petitioner-firm. The said letter dated 18.07.2022, which acknowledges the outstanding dues and contains a direction issued to respondent No. 5 by

the Chief Manager, P.C.D.F., Lucknow, has been brought on record as Annexure No. 8 to the writ petition.

30. The petitioner claimed Rs.18,59,197/- as outstanding dues from Pradeshik Co-operative Dairy Federation Limited and Firozabad Dugdha Utpadak Sahkari Sangh Limited along with the security deposit of Rs.20,000/-, but no heed was paid by answering respondents which impelled the petitioner to institute the present writ proceedings.

31. The various letters issued by the answering respondents clearly demonstrate that the petitioner's firm work performance and outstanding dues are admitted. The petitioner-firm had performed its contractual obligations under the work order, and the outstanding amount payable to it stands clearly admitted. Thus, there is no justification whatsoever, including lack of fund which could be said to be justified in not making the payments.

32. Respondent No. 5, in its counter-affidavit, has submitted that Pradeshik Co-operative Dairy Federation Limited, 29 Park Road, Lucknow (hereinafter referred to as "P.C.D.F."), is an Apex Milk Co-operative Society, as contemplated under Section 2(a-4) of the U.P. Co-operative Societies Act, 1965 (hereinafter referred to as "the Act, 1965"), and is registered under the said Act.

33. Firozabad Dugdha Utpadak Sahkari Sangh Limited, Bundukatra, Gwalior Road, Agra (hereinafter referred to as "Dugdha Sangh, Firozabad"), is a Central Milk Co-operative Society within the meaning of Section 2(d-1) of the Act, 1965, and is registered under the said Act.

34. The supply of the work force on the part of petitioner for the security purposes to respondent no.5 and his dues as per the agreement and work order were paid from time to time and at present Rs.18,59,197/- remains to be paid to the petitioner by respondent no.5. The agreement between the petitioner and respondent no.5 remained in operation till 31.05.2021. The liability to pay the outstanding dues has been admitted in paragraph No. 9 of the counter-affidavit but the same

has been attempted to be shirked off by stating financial difficulties and lack of money. The paragraph nos.9 and 11 of the counter affidavit filed by respondent no.5 read:

> *"9. that the petitioner has supplied work force for the security purpose to the respondent no.5 and his dues as per agreement and work order was paid from time to time and at present Rs.18,59,197.02/- remains to be paid to the petitioner by respondent no.5.*
>
> *11. That due to financial difficulties and lack of money, the dues of the petitioner could not be cleared and paid by the respondent no.5."*

35. The interesting aspect of the pleading in the counter-affidavit is that respondent No. 5 has asserted that, as and when funds become available to it, either through its earnings or otherwise, it will endeavour to pay the outstanding amount; and, if the amount cannot be paid in a lump sum, the same shall be paid in instalments.

36. From a bare appreciation of the factual foundation laid by the petitioner and the averments made by the respondent in its counter-affidavit, it is evident that the liability towards the outstanding dues of Rs. 18,59,197/- stands categorically admitted. There is no denial that the money due under the contract in lieu of service provided in the shape of security personnel has not be paid.

37. After exchange of pleadings, the matter has been finally heard. During the course of hearing, learned counsel for respondent No. 5, Mr. G.D. Mishra, produced the instructions dated 13.08.2026, which read as under:

> **"उपर्युक्त विषयक सादर अवगत कराना है कि मैसर्स पूर्व सैनिक सिक्योरिटी सर्विस यादव नगर आगरा बाईपास रोड मैनपुरी थू इट्स पार्टनर श्री जागेश्वर सिंह द्वारा दुग्ध संघ फिरोजाबाद में दिनांक 01.10.2018 से 31.05.2021 तक उपलब्ध करायी गयी सिक्योरिटी सर्विसेज के सापेक्ष वित्त अनुभाग के लेजर के अनुसार संस्था पर रू0 18,59,197/-(अठारह लाख उनसठ हजार एक सौं संतांनवे रुपये मात्र) की धनराशि एवं धरोहर धनराशि के रूप में सावधि जमा पत्र (Fixed Deposit Receipt) रुपये. 20,000/- (बीस हजार रु० मात्र) संस्था में जमा है।"**

38. In view of the recent instructions admitting the liability of Rs. 18,59,197/- towards contractual dues, coupled with the Fixed Deposit

Receipt of Rs. 20,000/-, the total amount outstanding comes to Rs. 18,79,197/-, which respondent No. 5 is under an obligation to pay.

39. Paucity of funds, as is often pleaded by State instrumentalities, cannot constitute a valid ground for withholding admitted contractual dues. The obligation to discharge such contractual dues is a continuing and recurring obligation.

40. In **State of West Bengal v. Confederation of State Government Employees, West Bengal, (2026) 6 SCC 641**, the Hon'ble Supreme Court, while considering the question whether paucity of funds can defeat an established legal right, held that once such a right has been established, the State cannot refuse to discharge its obligation on the ground of financial inability or paucity of funds. The relevant excrept is reproduced hereinbelow:

> *"50. One of the implications of accepting the respondent's contention as submitted by the appellant - State is that it will lead to an incidence of thousands of crores on the State, thereby having a great negative impact on the economy and financial security of the State. We find this position difficult to accept. This is so because once a legal right has been established, as is the undoubted position in this case by virtue of the 'Judgment In Round One', as also our discussion supra, irrespective of whether it pertains to salary, pension, gratuity or other statutory benefits, it is not within the realm of permissible actions for the State to refuse payment of the same on account of financial inability/paucity of funds. The least that is expected of a State in a democracy is that it honours its obligations and commitments, arising from a legislation or judicial decisions, for such obligations are not discretionary in any way, shape or form. This clear position protects such statutory obligations for, if such a ground of limited financial ability was readily available to the State Government, which may undoubtedly in certain situations face tough times, it would render these obligations illusory. When it comes to employees' dues, this proposition would be extremely dangerous and stifling since the amounts received thereby are not handouts or acts of charity but are earned compensation / consideration for services given, and denial of such consideration would have a direct impact on the right to life and livelihood enshrined in Article 21 of the Constitution. In State of H.P. v. H.P. State Recognised & Aided Schools76 , it has been held by a bench of three judges that constitutional duties cannot be evaded on the ground of paucity of funds. Granted, we have not given any finding with respect to DA being a facet of Article 21 but at the same time it has to be acknowledged that DA is an integral part of salary which is the means by which various other facets of right to life under Article 21 can be seen to a logical and desirable end."*

(Emphasis by us)

41. Paucity of funds, financial constraints or internal administrative difficulties cannot constitute a legally sustainable defence for withholding admitted contractual dues. In **M/s Lumber India Corporation v. Union Territory of J&K and Others, 2026 SCC OnLine J&K 236**, the High Court of Jammu and Kashmir and Ladakh, held that once the work has been executed and accepted, the corresponding obligation to make payment stands crystallised and cannot be deferred on the ground of non-availability of funds or want of administrative approval. The relevant excrepts are reproduced hereinbelow:

> *"37.This Court is of the considered opinion that once the execution of the work is admitted and it is not in dispute that the respondents have derived full benefit therefrom, it does not lie in their mouth to contend, at a belated stage, that funds were not available or that requisite administrative approvals were lacking. Such pleas, raised post facto, are nothing but an attempt to evade a lawful liability and are wholly untenable in law. It is trite and well settled through a catena of judgments that the State and its instrumentalities cannot shirk their financial obligations on the ground of paucity of funds, particularly after having accepted and utilized the work executed for their benefit. The obligation to make payment, in such circumstances, attains a binding character and cannot be rendered illusory by internal administrative deficiencies or financial constraints. To countenance such a defence would not only amount to permitting the State to unjustly enrich itself at the expense of the petitioner but would also strike at the very foundation of fairness and reasonableness that underpins State action under Article 14 of the Constitution. The respondents, having enjoyed the fruits of the work executed, are estopped from raising such pleas, and the liability to honour the corresponding payment stands crystallized and enforceable in law."*

42. The Division Bench of High Court of Jammu and Kashmir and Ladakh in **Union Territory of J&K & Ors. vs. Mohammad Afzal Reshi** has, in no uncertain terms, deprecated the practice of withholding admitted dues on the pretext of paucity of funds and has observed that such an excuse is "abominable and condemnable in the strongest words". For facility of reference same is reproduced as under:

> *"19. Under the circumstances, this Court feels that an order needs to be passed in this particular Letters Patent Appeal which is exemplary and deterrent in nature to prevent the Union Territory from filing such frivolous cases and delaying the relief granted to the litigants. In this particular case, the respondent herein has been kept waiting for nine (9)*

> *years from the year 2015 for the payment of his just dues which are not disputed. He was compelled to file writ petition only because his admitted dues were not being paid by the Union Territory for six long years on the grounds of paucity of funds which excuse is abominable and condemnable in the strongest words. The UT LPA No. 121/2023 The government is part of the Union Government which is the repository of the lion's share of the wealth generated in this country in the first instance and thereafter distributed to the states. It shocks the conscience that we tout ourselves as the fifth largest economy in the world, aspiring to be the third largest soon, but do not have the funds to pay the legitimate dues of the respondent amount to Rs. 20.97 Lacs, which denigrates and puts to doubt the lofty claims of the economic prowess of the country"*

43. After hearing the parties at length, we are of the considered opinion that the legitimate dues of the petitioner are liable to be cleared with promptitude. At this stage, learned counsel for respondent No. 5, Mr. G.D. Mishra, submitted that the outstanding amount may be permitted to be liquidated in easy instalments, to which the learned counsel for the petitioner expressed reservations.

44. The legitimate dues of the petitioner have remained unpaid by the respondent for a considerable period of approximately five years. Thus, the respondent has been unduly enriched at the cost of the petitioner. State instrumentalities cannot be permitted to unjustly enrich themselves at the cost of citizens.

45. The principle of unjust enrichment is founded on the equitable proposition that no person should be permitted to retain a benefit which, in the circumstances of the case, it would be unjust or inequitable for him to retain. The remedy of restitution is distinct from remedies arising out of contract or tort and falls within the broader category of quasi-contractual obligations. Thus, where a person has received a monetary or other benefit at the expense of another, the Court may, depending upon the circumstances, mould the relief so as to prevent unjust enrichment and restore the parties, as far as possible, to the position which justice requires. (See: *K.S. Satyanarayana v. V.R. Narayana Rao, (1999) 6 SCC 104, State of Madhya Pradesh v. Vyankatlal, (1985) 2 SCC 544, Nawabganj Sugar Mills v. Union of India, (1976) 1 SCC 120, Amar Nath Om Parkash v. State of Punjab, (1985) 1 SCC 345, Mafatlal Industries*

Ltd. v. Union of India, (1997) 5 SCC 536 and Shree Digvijay Cement Company Ltd. v. Union of India, (2003) 2 SCC 614).

46. Be that as it may, having considered the various decisions of this Court as well as the Supreme Court, we are of the considered opinion that the instant petition seeking liquidation of contractual dues is not only maintainable but is also entertainable, particularly in the factual background of this case when liability has been unequivocally admitted.

47. Accordingly, respondent No. 5 is directed to liquidate the amount in question along with interest with promptitude, say within a maximum period of three months from today.

48. Till payment/realization of the amount as indicated above, interest at the rate of 6% per annum would accrue which shall be paid by respondents.

49. In the aforesaid terms, the instant writ petition is **allowed**. No order as to costs.

50. Let a copy of this order be communicated through the Registrar (Compliance) to Firozabad Dugdha Utpadak Sahkari Sangh Limited, Bandukatra, Gwalior Road, Agra by Chief Judicial Magistrate, Agra.

51. The Court places on record its sincere appreciation for the diligent efforts demonstrated by Ms. Shreya Shukla, Research Associate. Her meticulous analysis, clarity of thought, and keen attention to the legal issues involved have been of considerable assistance to the Court in adjudicating the present matter.

(Indrajeet Shukla,J.) (Prakash Padia,J.)

October 13, 2026
Mohit

Digitally signed by :-
MOHIT KUMAR KUSHWAHA
High Court of Judicature at Allahabad