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WP-14594-2020

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 16th OF JUNE, 2025WRIT PETITION No. 14594 of 2020*ASHOK AIREN**Versus**FARMER WELFARE AND AGRICULTURE DEPARTMENT AND
OTHERS*

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Appearance:

Shri Ashok Kumar Sethi, Senior Advocate with Shri Ayush Gupta,
Advocate for the petitioner.

Shri Kushal Goyal appearing on behalf of Advocate General.

Shri Abhinav Dhanodkar - Advocate for the respondent No.2 to 5.

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ORDER

By this writ petition preferred under Article 226 of the Constitution of India, the petitioner has sought for the following reliefs:-

"(1) Request for directions to the Respondents for clearing the bills of various Writ Petitions and Writ Appeals and other cases in which the Petitioner had appeared as a counsel for the Marketing Board as well as the Mandi Samiti and in spite of various reminders the bills are not being paid in this pandemic situations and the bills are pending since 2017.

(2) To award costs of the Petition from the respondent.

(3) Any other relief which this Hon'ble Court may deem fit in the facts and circumstances of the case against the Respondents and in favour of the Petitioner's be granted."

02. This Writ Petition has been filed by the petitioner, who is an advocate, claiming payment of bills allegedly due to be paid to him for his appearance as a counsel for the respondents in various writ petitions and writ



appeals.

03. A preliminary objection has been raised by the learned counsel for respondents No.2 to 5 as regards maintainability of the petition submitting that the relief as claimed for by the petitioner cannot be granted to him in a Writ Petition under Article 226 of the Constitution of India and that for the said relief, the petitioner ought to approach the Civil Court. Reliance has been placed on the decisions of the Apex Court in *Improvement Trust, Ropar Vs. S. Tejinder Singh Gujral and Others*, 1995 SUPP (4) SCC 577, *New India Assurance Co. Ltd. Vs. A.K. Saxena*, 2004 (1) SCC 117, *Vijay Kumar Shukla Vs. State of Uttar Pradesh and Others* (W.P. (C) No.217/2018) decided on 10-07-2023, *K.N. Mishra Vs. State of Uttar Pradesh and Others* 2006 SCC OnLine All 334, *Mr. T.S. Prakash Vs. State of Karnataka and Others* (W.P. No.9526/2019) decided on 01-02-2021 and *Shafi Ibrahim Kazi Vs. State of Maharashtra and Another* (W.P. No.953/2019) decided on 19-07-2024."

04. Learned senior counsel for the petitioner has however submitted that a writ petition for claiming payment of outstanding Advocates fees is very much maintainable and deserves to be decided on merits. Reliance has been placed by him on the decision of the Apex Court in *Government of Tamil Nadu and Another Vs. R. Thillaivillalan* AIR 1991 SC 1231, of the Andhra Pradesh High Court in *Ms. A. Ch. Vedavani Vs. State of Andhra Pradesh and Others* 2022 (0) Supreme (AP) 163 and order dated 26.05.2025 passed by the High Court of Kerala in W.P.(C) No.34764/2018 (*Mathew B. Kurian Vs. National Council for Teacher Education and Others*).



05. I have heard the learned counsel for the parties and have perused the record.

06. In *S. Tejinder Singh Gujral (Supra)* the Apex Court has categorically held that no writ petition can lie for recovery of an amount under a contract and there is no separate law for the Advocates. It was held as under:-

"3. We find that the High Court had allowed the writ petition filed by the respondent-advocate for the recovery of his professional fees from the petitioner. No writ petition can lie for recovery of an amount under a contract. The High Court was clearly wrong in entertaining and allowing the petition. There is no separate law for the advocates. In the circumstances, we set aside the order passed by the learned Single Judge on 26-7-1991 and dismiss the writ petition. The result is that the letters patent appeal pending before the Division Bench of the High Court would also come to an end. The appeal is allowed accordingly. In the circumstances of the case, there will be no order as to costs."

07. Further in *New India Assurance Company Ltd. (Supra)* the Apex Court held that when there is dispute about unpaid remuneration of an advocate, it is not for the High Court to adjudicate upon such a disputed question of fact. The remedy of the Advocate is to resort to the legal remedies for recovery of his fees. In *Vijay Kumar Shukla (Supra)* also the Apex Court has raised a serious doubt whether a petition under Article 32 of the Constitution of India should be entertained at the instance of an Advocate for recovery of his fees and that also when there is a serious dispute about entitlement to receive fees based on certain bills. The said observations would be applicable to a writ petition under Article 226 of the Constitution of India also. It may be mentioned that in this petition a serious dispute has been raised by respondents 2 to 5 as regards the entitlement of the petitioner to receive the professional fee which has been claimed by him.

08. Thus, it has been held by the Apex Court consistently that a writ



petition would not lie for recovery of amount of remuneration of an Advocate under a contract. The relationship between an Advocate and his client is certainly a contract hence this writ petition for recovery of the fees bill would not be maintainable.

09. In *R. Thillaivillalan (Supra)* the issue as regards maintainability of a writ petition under Article 226 of the Constitution of India by a lawyer for recovery of his professional fees was neither raised nor decided. The judgments in the case of *Ms. A. Ch. Vedavani (Supra)* and *Mathew B. Kurian (Supra)* have not considered the decisions of the Apex Court in the cases referred to as above hence cannot be said to be binding upon this Court. The judgments relied upon by learned counsel for the petitioner hence do not help him in any manner.

10. Thus, in view of the aforesaid discussion, the petition is found to be not maintainable and is accordingly dismissed reserving liberty to the petitioner to resort to such legal remedies in respect of the relief claimed herein as may be permissible under the law.

(PRANAY VERMA)
JUDGE

Shilpa