



Reserved



2026:AHC:139205-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT -C No. - 20880 of 2026**

Chandan Kumar

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

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|---------------------------|---------------------------------|
| Counsel for Petitioner(s) | : Amit Kumar Pandey             |
| Counsel for Respondent(s) | : C.S.C., Narendra Kumar Tiwari |

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**AFR**

**Court No. - 2**

**HON'BLE J.J. MUNIR, J.  
HON'BLE INDRAJEET SHUKLA, J.**

**Delivered by: Indrajeet Shukla, J.**

1. Heard learned counsel for the petitioner, Sri Girijesh Kumar Tripathi, learned Additional Chief Standing Counsel for the respondent no. 1 to 3 and Sri Rakesh Kumar Mishra, Advocate holding brief of Sri Narendra Kumar Tiwari, learned counsel for respondent no.4.
2. The instant writ petition has been filed under Article 226 of the Constitution of India with the following prayer:

*“a) TO ISSUE a writ order or direction to the respondents to decide the complaint letter via the Chief Minister's Portal Complaint No. 40017526002646 dated 12.01.2026 and Complaint No. 40017526008467 dated 07.02.2026 pending before the respondent no. 4 (Executive Engineer), Department of Electricity, Myohall, Prayagraj within stipulated time.”*

3. Facts in brief are being recapitulated as under:

(i) The Petitioner claims that cheques bearing numbers 115323, 115324 and 115325 belonging to his firm M/S Ananta Enterprises were lost. Apprehending their misuse, the petitioner allegedly submitted a complaint at Police Station Colonelganj, Prayagraj on 05.11.2025 but the same remained of no avail. Thereafter the petitioner received an SMS on 30.12.2025 from his Bank informing him that a cheque bearing number 115323 for an amount of Rs.80,000/- had been processed for encashment in favour of the Executive Engineer, Electric Store Division Purvanchal Vidyut Vitran Nigam, Myohall, Prayagraj (4<sup>th</sup> respondent) towards payment of electricity dues.

(ii) Immediately on 31.12.2025, the petitioner approached the 4<sup>th</sup> respondent, and informed him that the cheque had been stolen and misused for clearing of someone else's electricity dues. In turn, the 4<sup>th</sup> respondent informed that the cheque in question had been deposited by a certain "Fusion Wellness Centre" having consumer I.D. number 2711948715 belonging to Mrs. Urmila Gupta (5<sup>th</sup> respondent).

4. The contention raised by petitioner is that he had never issued the said cheques in favour of 5<sup>th</sup> respondent who by misusing the cheques defrauded the petitioner. It has further been submitted that the theft and fraudulent use of cheque constitutes offences under Sections 316(2), 318(4), 336(3), 338, 340(2), 61(2) of B.N.S., 2023 corresponding to erstwhile Sections 406, 420, 467, 468, 471 and 120-B of IPC.

5. When the 4<sup>th</sup> respondent failed to take any action on the petitioner's complaint, he was constrained to file a criminal complaint for the redressal of his grievance on the Chief Minister portal.

6. The petitioner has further alleged that the officials of Electricity Department are acting in collusion with respondent no.5 and on account of such collusion no action has been taken on the petitioner's complaint.

7. On being confronted with respect to the law for the issue of a writ of mandamus, the learned counsel for the petitioner, utterly failed to point out the statutory or legal right of the petitioner which had been

infringed and in what manner the respondents was obliged to redress the petitioner's complaint on administrative side.

8. It is settled law that before an applicant could ask for a writ of mandamus or an order in the nature of mandamus, he has to satisfy the Court that the following conditions are fulfilled.

- (a) The applicant has a legal right;
- (b) The opposite party has a legal duty;
- (c) The application is made in good faith;
- (d) The applicant has no other alternative remedy; and
- (e) The opposite party has refused relief at least due to inaction i.e. demand and refusal.

9. In the case of **Hardik Pravin Kumar Shah Vs. Union of India, 2021 Supreme(Online)(Guj) 3585**, the Gujarat High Court, speaking through Hon'ble Mr. Justice J.B. Pardiwala (as His Lordship, then was), held that mandamus is an action or judicial proceeding of a civil nature extraordinary in the sense that it can be maintained only when there is no other adequate remedy, prerogative in its character to the extent that the issue is discretionary, to enforce only clear legal rights, and to compel courts to take jurisdiction or proceed in the exercise of their jurisdiction, or to compel corporations, public and private, and public boards, commissions, or officers, to exercise their jurisdiction or discretion and to perform ministerial duties, which duties result from an office, trust, or station, and are clearly and peremptorily enjoined by law as absolute and official. It is intended to supply deficiency in law. It can only be issued as a last resort, where the court is satisfied that without its aid there would be failure of justice.

10. Mandamus is not a writ of right and is not granted as a matter of course (*ex debito justitiae*). Its grant or refusal is at the discretion of the court. A court may refuse mandamus unless it is shown that there is a clear legal right of the applicant or statutory duty of the respondent and

there is no alternative remedy available to the applicant. [See: **Union of India v. S.B. Vohra, (2004) 2 SCC 150**].

11. The discretion of the court, however, is not arbitrary and it must be exercised fairly, reasonably and on sound and well established legal principles.

12. The court, in the exercise of discretion, must take into account wide variety of circumstances. It must consider the facts of the case, the exigency which calls for the exercise of discretion, the consequences of granting or refusing the writ, the nature and extent of injury likely to ensue by the grant or refusal of the writ, etc. In short, courts discretion must be governed by considerations of public policy, public interest and public good.

13. In the decision reported in **(2008) 2 SCC 280, Oriental Bank of Commerce v. Sunder Lal Jain**, in paragraphs 11 and 12, the Supreme Court held thus:

*"11. The principles on which a writ of mandamus can be issued have been stated as under in The Law of Extraordinary Legal Remedies by F.G. Ferris and F.G. Ferris, Jr.:*

*.Mandamus, at common law, is a highly prerogative writ, usually issuing out of the highest court of general jurisdiction, in the name of the sovereignty, directed to any natural person, corporation or inferior court within the jurisdiction, requiring them to do some particular thing therein specified, and which appertains to their office or duty. Generally speaking, it may be said that mandamus is a summary writ, issuing from the proper court, commanding the official or board to which it is addressed to perform some specific legal duty to which the party applying for the writ is entitled of legal right to have performed.*

*Mandamus is, subject to the exercise of a sound judicial discretion, the appropriate remedy to enforce a plain, positive, specific and ministerial duty presently existing and imposed by law upon officers and others who refuse or neglect to perform such duty, when there is no other adequate and specific legal remedy and without which there would be a failure of justice. The chief function of the writ is to compel the performance of public duties prescribed by statute, and to keep subordinate and inferior bodies and tribunals exercising public functions within their jurisdictions. It is not necessary, however, that the duty be imposed by statute; mandamus lies as well for the enforcement of a common law duty.*

*Mandamus is not a writ of right. Its issuance unquestionably lies in the sound judicial discretion of the court, subject always to the well settled principles which have been established by the courts. An action in mandamus is not governed by the principles of ordinary litigation where the matters alleged on one side and not denied on the other are taken as true, and judgment pronounced thereon as of course. While mandamus is classed as a legal remedy, its issuance is largely controlled by equitable principles. Before granting the writ the court may, and should, look to the larger public interest which may be concerned and an interest which private litigants are apt to overlook when striving for private ends. The court C/SCA/13653/2020 JUDGMENT should act in view of all the existing facts, and with due regard to the consequences which will result. It is in every case a discretion dependent upon all the surrounding facts and circumstances.*

*The correct rule is that mandamus will not lie where the duty is clearly discretionary and the party upon whom the duty rests has exercised his discretion reasonably and within his jurisdiction, that is, upon facts sufficient to support his action.*

*12. These very principles have been adopted in our country. In Bihar Eastern Gangetic Fishermen Coop. Society Ltd. v. Sipahi Singh after referring to the earlier decisions in Lekhraj Sathramdas Lalvani v. N.M. Shah, Rai Shivendra Bahadur (Dr.) v. Nalanda College and Umakant Saran (Dr.) v. State of Bihar this Court observed as follows in para 15 of the Reports (SCC): (Sipahi Singh case, SCC pp. 15253) "15. ... There is abundant authority in favour of the proposition that a writ of mandamus can be granted only in a case where there is a statutory duty imposed upon the officer concerned and there is a failure on the part of that officer to discharge the statutory obligation. The chief function of a writ is to compel performance of public duties prescribed by statute and to keep subordinate tribunals and officers exercising public functions within the limit of their jurisdiction. It follows, therefore, that in order that mandamus may issue to compel the authorities to do something, it must be shown that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance.... In the instant case, it has not been shown by Respondent 1 that there is any statute or rule having the force of law which casts a duty on Respondents 2 to 4 which they failed to perform. All that is sought to be enforced is an obligation flowing from a contract which, as already indicated, is also not binding and enforceable. Accordingly, we are clearly of the opinion that Respondent 1 was not entitled to apply for grant of a writ of mandamus under Article 226 the Constitution and the High Court was not competent to issue the same.*

*Therefore, in order that a writ of mandamus may be issued, there must be a legal right with the party asking for the writ to compel the performance of some statutory duty cast upon the authorities...."*

14. Mandamus is the most valuable and essential remedy in the Administrative Justice resorted to supply want of some appropriate ordinary remedy. The functions of the writ court is to compel the performance of public duty, for which, the person approaching the writ court, has a clear, specific and unequivocal, constitutional or statutory or legal right to the relief sought and a failure on the part of those who are bound to perform certain duties and functions, as laid down by the legislature or directions issued for the purpose of enforcing the provisions of an enactment or of any delegated or subordinate legislation. There must be a legal right and corresponding legal duty.

15. In **State of Kerala v. A.Lakshmi Kutty, reported in 1986 (4) SCC 632**, the Supreme Court held that a Writ of Mandamus is not a writ of course or a writ of right but is, as a rule, discretionary. There must be a judicially enforceable right for the enforcement of which a mandamus will lie. The legal right to enforce the performance of a duty must be in the applicant himself. In general, therefore, the Court will only enforce the performance of statutory duties by public bodies on application of a person who can show that he has himself a legal right to insist on such performance. The existence of a right is the foundation of the jurisdiction of a Court to issue a writ of Mandamus.

16. When a Writ of Mandamus can be issued, has been summarised in Corpus Juris Secundum, as follows:

*"Mandamus may issue to compel the person or official in whom a discretionary duty is lodged to proceed to exercise such discretion, but unless there is peremptory statutory direction that the duty shall be performed mandamus will not lie to control or review the exercise of the discretion of any board, tribunal or officer, when the act complained of is either judicial or quasijudicial unless it clearly appears that there has been an abuse of discretion on the part of such Court, board, tribunal or officer, and in accordance with this rule mandamus may not be invoked to compel the matter of discretion to be exercised in any particular way. This principle applies with full force and effect, however, clearly it may be made to appear what the decision ought to be, or even though its conclusion be disputable or, however, erroneous the conclusion reached may be, and although there may be no other method of review or correction provided by law. The discretion must be exercised according to the established rule where the action complained has been arbitrary or capricious, or based on personal, selfish or fraudulent motives, or on*

*false information, or on total lack of authority to act, or where it amounts to an evasion of positive duty, or there has been a refusal to consider pertinent evidence, hear the parties where so required, or to entertain any proper question concerning the exercise of the discretion, or where the exercise of the discretion is in a manner entirely futile and known by the officer to be so and there are other methods which it adopted, would be effective." (emphasis supplied)"*

17. The Supreme Court in case of **Mr. R.S. Madireddy and another etc. Vs. Union of India and others etc., 2024 INSC 425**, while delineating the scope for the issue of a writ of mandamus under Article 226 of the Constitution of India has reiterated that the existence of an enforceable legal right in the petitioner and the corresponding public or statutory duty cast upon the respondent are *sine qua non* for issuance of such a writ.

18. The Supreme Court **Rikhab Chand Jain Vs. Union of India and others, 2025 INSC 1337** has reiterated the settled principles governing the exercise of writ jurisdiction under Article 226 of Constitution of India and has emphasized that such jurisdiction is discretionary in nature and ordinarily ought not to be exercised wherein efficacious statutory remedy is available, except in exceptional circumstances recognized in law.

19. A prerogative writ, like, a Mandamus cannot be demanded ***ex debito justitiae***, but it can be issued by the court in its discretion, for which, it must be shown that, there is a non discretionary legal duty upon the authority against whom, the relief is sought and that the person approaching the High Court under Article 226 of the Constitution of India, has to prove that he has a legal right to be enforced against the authority, for the failure of performance of a legal or statutory duty, by the authority against whom, the relief is sought.

20. The principles governing the issuance of a writ of mandamus may be summarised as follows:

(i) The petitioner must establish the existence of a clear and enforceable legal right to compel the respondent to do or to abstain from doing something.

(ii) There must be a corresponding legal obligation or public duty cast upon the respondent, the performance of which the petitioner is entitled to demand.

(iii) The duty sought to be enforced must be of a public character and must emanate from the Constitution, a statute, statutory rules, or the common law.

(iv) The remedy of mandamus is neither intended to supplant the ordinary remedies available before a competent civil court, nor does it deprive the respondent of any lawful defence available in such proceedings.

(v) The power to issue a writ of mandamus is discretionary. Ordinarily, where an equally efficacious alternative remedy is available, it is a sound exercise of judicial discretion to decline the writ and relegate the petitioner to the ordinary remedy prescribed by law.

(vi) A writ of mandamus is neither a writ of right nor one issued as a matter of course. Its grant depends upon the facts and circumstances of each case and is governed by the judicial discretion of the Court.

(vii) While exercising jurisdiction under Article 226 of the Constitution, the High Court does not function as a court of appeal. It does not reassess factual matters or substitute its own opinion for that of the statutory authority entrusted with the decision-making process. The writ is ordinarily issued only where the petitioner demonstrates a direct and substantial infringement, or an imminent threat of infringement, of a legal or fundamental right.

(viii) A writ of mandamus is not maintainable for the resolution of purely private disputes or for the enforcement of private rights unconnected with a public duty.

(ix) No writ of mandamus can be issued against His excellency the President of India or the Governor of a State in view of the constitutional immunity conferred upon them.

(x) Lastly, the Court will not issue a writ of mandamus where compliance with its directions is impossible or unlikely. A writ of



mandamus must serve a practical and enforceable purpose, and the Court does not issue futile or ineffective writs.

21. The fabric of complaint submitted by petitioner on Chief Minister's portal clearly exhibits that he is aggrieved by non-registration of criminal case. The petitioner has got efficacious remedy of invoking statutory safeguards for redressal of his grievance for registration of criminal case particularly statutory scheme framed under Chapter XIII of B.N.S.S., 2023 (Information to the police and their powers to investigate) which includes even default remedy of refusal on the part of an officer in-charge of a police station to record the information and investigate.

22. The petitioner utterly failed to respond that how the scheme contained in B.N.S.S. for registration of criminal case is not efficacious one, though the statutory remedy lies therein.

23. On close scrutiny and examination of factual matrix of this case, it comes out that petitioner utterly failed to demonstrate any infeasible right and corresponding obligation fastened by law upon the authorities concerned in the nature of public duty. Thus, the present writ petition fails and is accordingly, **dismissed**.

24. No order as to costs.

25. However, the liberty would rest with the petitioner to avail his statutory remedies including one provided under Chapter XIII of B.N.S.S., 2023, if so advised.

**(Indrajeet Shukla,J.) (J.J. Munir,J.)**

**Date:10.07.2026**

Mohit