

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 8000/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Supertending Engineer, Phed, Project Circle, Sector-6, Pratap Nagar, Jaipur - 302033.

----Respondents

Connected With

S.B. Civil Writ Petition No. 7616/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7617/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department,



Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.

2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7670/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur-303103 (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur-302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 7690/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur-303103 (Raj.)

----Petitioner

Versus

1. The State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur-302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 7713/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus



1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7715/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7733/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7767/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur-303103 (Raj.)



----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur-302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 7798/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-I, Jyoti Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7821/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-I, Jyoti Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7826/2022

M/s Shri Shyam Tubewell Company, A Sole Proprietorship Firm

Through Its Proprietor, Mr. Padam Chand Jain S/o Ram Karan Jain Aged About 60 Years, Resident Of House No.9, Kanti Nagar, Hathi Babuka Baagh, Station Road, Jaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 501, Main Building, Government Secretariat, Jaipur
2. Additional Chief Engineer, Phed, Ncr Region Ii, Near Rbi Quarter, Gandhi Nagar Jaipur

----Respondents

S.B. Civil Writ Petition No. 7827/2022

M/s Shri Shyam Tubewell Company, A Sole Proprietorship Firm Through Its Proprietor, Mr. Padam Chand Jain S/o Ram Karan Jain Aged About 60 Years, Resident Of House No.9, Kanti Nagar, Hathi Babuka Baagh, Station Road, Jaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 501, Main Building, Government Secretariat, Jaipur
2. Additional Chief Engineer, Phed, Ncr Region Ii, Near Rbi Quarter, Gandhi Nagar Jaipur

----Respondents

S.B. Civil Writ Petition No. 7839/2022

M/s Shri Shyam Tubewell Company, A Sole Proprietorship Firm Through Its Proprietor, Mr. Padam Chand Jain S/o Ram Karan Jain Aged About 60 Years, Resident Of House No.9, Kanti Nagar, Hathi Babuka, Station Road, Jaipur

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 501, Main Building, Government Secretariat, Jaipur

2. Additional Chief Engineer, Phed, Ncr Region, Alwar

----Respondents

S.B. Civil Writ Petition No. 7840/2022

M/s Shri Shyam Tubewell Company, A Sole Proprietorship Firm Through Its Proprietor, Mr. Padam Chand Jain S/o Ram Karan Jain Aged About 60 Years, Resident Of House No.9, Kanti Nagar, Hathi Babuka Baag, Station Road, Jaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 501, Main Building, Government Secretariat, Jaipur

2. Additional Chief Engineer, Phed, Ncr Region I, Jaipur.

----Respondents

S.B. Civil Writ Petition No. 7888/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005

2. Additional Chief Engineer, Phed, Region-I, Jyoti Nagar, Jaipur (Raj.).

----Respondents

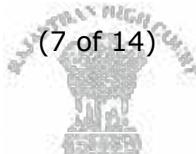
S.B. Civil Writ Petition No. 7995/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building,



Government Secretariat, Jaipur - 302005.

2. Additional Chief Engineer, Phed, Ncr Region, Manu Marg, Alwar (Raj.).

----Respondents

S.B. Civil Writ Petition No. 8014/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005
2. Additional Chief Engineer, Phed, Ncr Region, Manu Marg, Alwar (Raj.).

----Respondents

S.B. Civil Writ Petition No. 8015/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-I, Jyoti Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 8016/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus



1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005
2. Additional Chief Engineer, Phed, Ncr Region, Manu Marg, Alwar (Raj.)

----Respondents

S.B. Civil Writ Petition No. 8017/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005
2. Additional Chief Engineer, Phed, Region-I, Jyoti Nagar, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 8018/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005
2. Additional Chief Engineer, Phed, Region-I, Jyoti Nagar, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 8060/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).



----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005
2. Additional Chief Engineer, Phed, Ncr Region, Manu Marg, Alwar (Raj.)

----Respondents

S.B. Civil Writ Petition No. 8107/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur-303103 (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur-302005.
2. Additional Chief Engineer, Phed, Region-I, Jyoti Nagar, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 8115/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur-303103 (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur-302005.
2. Additional Chief Engineer, Phed, Ncr Region, Manu Marg, Alwar (Raj.)

----Respondents

S.B. Civil Writ Petition No. 8116/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh

Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur-303103 (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur-302005.
2. Additional Chief Engineer, Phed, Region-I, Jyoti Nagar, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 7714/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar Jaipur (Raj.).

----Respondents

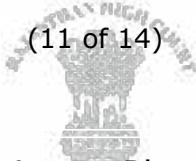
S.B. Civil Writ Petition No. 7717/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.



2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7718/2022

M/s. Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005.
2. Additional Chief Engineer, Phed, Region-II, Gandhi Nagar Jaipur (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7950/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005
2. Additional Chief Engineer, Phed, Ncr Region, Manu Marg, Alwar (Raj.).

----Respondents

S.B. Civil Writ Petition No. 7952/2022

M/s Shri Ganpati Tubewell Company, Through Proprietor Mahesh Kumar Mittal, Near New Bus Stand, Shahpura, Jaipur - 303103 (Raj.).



----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretary, Public Health Engineering And Ground Water Department, Government Of Rajasthan, 5105, Main Building, Government Secretariat, Jaipur - 302005
2. Additional Chief Engineer, Phed, Ncr Region, Manu Marg, Alwar (Raj.).

----Respondents

For Petitioner(s)	: Mr. Suresh Kumar Sahni with Mr. Ram Manohar Sharma. Mr. Abhinav Sharma, through VC with Mr. Vikash Kumawat.
For Respondent(s)	: Mr. Anil Mehta, AAG assisted by Mr. Yashodhar Pandey & Ms. Archana.

HON'BLE MR. JUSTICE INDERJEET SINGH

Order

31/08/2023

Since, the controversy raised in these writ petitions is common, therefore, with consent of learned counsels for both the parties, these writ petitions have been heard together and are being decided by the present common order.

At the joint request, the facts have been noticed from S.B. Civil Writ Petition No.8000/2022 and the prayer made therein reads as under:-

In view of the above cogent facts, law and extenuating circumstances erupting from the legal phrase of Force Majeure (clause-46), it is most humbly prayed that this Hon'ble Court may kindly be pleased to issue a writ of mandamus or any other writ of like nature, whereby, the Respondents be directed to take notice of clause-46 of Force Majeure and the if desirous execution of the remaining work rates incorporate in the 'G' Schedule be revised in tune with the BSR

(Basic Schedule of Rates) affective from 05.05.2022 (Annex-3), forthwith, lest the project of 'Jal Jeevan Scheme' suffers the delay in execution and causes inconvenience to the Public at large; and may pass any further order(s), which this Hon'ble Court deems just and proper in the facts and circumstances of the case."

Counsel for the petitioners submitted that due to war between Russia and Ukraine there is unprecedented price hike, therefore, the petitioners are unable to complete the contract, therefore, prayed for invoking the Clause 46 of the contract agreement which provides for 'Force Majeure' clause. Counsel further submits for invoking of Section-56 of the Indian Contract Act, 1872 and prayed for intervention of this court even in contract matters due to unavoidable circumstances the petitioners are unable to complete the contract.

Counsel for the respondents have opposed the writ petitions and submitted that according to Clause-23 of the contract agreement, the petitioners should firstly approached the Standing Committee for settlement of dispute with regard to contract agreement whatsoever dispute arises between the parties.

Heard counsel for the parties and perused the record.

In my considered view, since as per Clause-23 of the contract agreement, the Standing Committee can settle the disputes arises between the parties with regard to contract agreement, therefore, considering the facts and circumstance of the present case and also considering the nature of disputes arises between the parties, I am not inclined to exercise the jurisdiction of this court under Article 226 of the Constitution of India at this

stage as highly disputed questions of facts are involved in these matters.

Considering Clause-23 of the contract agreement, I dispose of these writ petitions with a liberty to the petitioners to approach the Standing Committee for invoking Clause-23 of the contract agreement within a period of four weeks from today.

In the event of application/claim submitted by the petitioners before the Standing Committee, the Standing Committee is directed to decide the same within a period of two months thereafter in accordance with law.

Copy of this order be separately placed in each file.

(INDERJEET SINGH),J

MG/52-77 (In Main List)

(Item No.1-5 in Supplementary-2/304-308 in template list)