

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM No. 1635/2024
In LPA No. 76/2024
Caveat No. 600/2024

UT of J&K and Ors

...Petitioner(s)/appellant(s)

Through: Mr. A.R. Malik, Sr. AAG, with
Mr. Mohammad Younis, Assisting Counsel.

Vs.

Shafat Huseen and Ors

...Respondent(s)

Through: Mr. Jahangir Iqbal Ganai, Sr. Advocate, with
Mr. Murfaad Naseem, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MOHAMMAD YOUSUF WANI, JUDGE

ORDER
27.03.2024

1. With the appearance of Mr. Jahangir Iqbal Ganai, learned Senior Counsel, caveat No. 600/2024 shall stand discharged.
2. The application being CM No. 1635/2024 has been filed by the applicants/appellants seeking condonation of delay in filing the LPA. Upon consideration of the reasons provided in the application and hearing the parties, this Court is satisfied with the cause for delay assigned. Accordingly, the present application is allowed, thereby condoning the delay in filing the appeal.
3. Heard Mr. A.R. Malik, learned Sr. AAG, assisted by Mr. Mohammad Younis, learned Advocate, for the appellants. Also heard Mr. Jahangir Iqbal Ganai, learned Senior Counsel, assisted by Mr. Murfaad Naseem, learned counsel for the caveators/respondents.
4. In this appeal, the following prayers have been made:
 - “a. That the Appeal be accepted and impugned orders dated 17.02.2023 and 01.11.2023 passed by the Ld. Writ Court in WP(C) No. 301/2023 and CM Nos. 3187/2023, 6044/2023 and 618/2023 titled Shafat Huseen & Ors V/s UT of J&K and Ors, be set aside.

b. The Ld. Single Bench may be requested to hear and decide the main Petition expeditiously in light of the objections and documents submitted by the Appellants in the interest of justice.”

5. Regarding the pending writ petition and the contempt petition, it has been brought to the attention of this Court that the matters are fixed for final consideration tomorrow i.e., 28th of March, 2024. As regards the contempt petition, the following order was passed on 26.03.2024 by the learned contempt Court:

“Heard in part.

Mr. Ab. Rashid Malik, learned Sr. AAG, submits that this case needs to be dealt with on final note in view of the nature of direction passed against the stand of the respondents to the writ petition.

The respondents have come forward with an additional affidavit filed by the Commissioner/Secretary to Government, Social Welfare Department, which is taken on record. Learned counsel for the petitioners’ is at liberty to respond to it by or before the next date of hearing.

List the main case on 28.03.2024 for final disposal with liberty to mention.

On the next date of hearing, the personal appearance of the Commissioner/Secretary to the Government, Social Welfare Department as well as the Mission Director Poshan, J&K, are exempted.”

6. Thus, from the above it is evident that the personal appearance of the Commissioner/Secretary to the Government, Social Welfare Department as well as the Mission Director Poshan, J&K, has been exempted for the next date of hearing.

7. Mr. Jahangir Iqbal Ganai, learned Senior Counsel, has also drawn the attention of this Court to Order No. 145-MD-of 2024 dated 25.03.2024, wherein it is stipulated that funds will be released subject to the fulfillment of the certain conditions, which, however, is only for a period of six months.

8. Under the circumstances, we are of the view that if the aforementioned partial payment is released, the personal appearance of the Commissioner/Secretary to the Government, Social Welfare Department as well as the Mission Director Poshan, J&K may be dispensed with. However, it is also made clear that if the amount mentioned in the aforesaid

order dated 25.03.2024 is not released, the contempt Court will be at liberty to pass appropriate orders regarding the exemption already granted.

9. We also make it clear that mere release of the aforementioned partial payment will not absolve the respondents of the liability to release the remaining amount, for which the contempt Court may pass appropriate orders.

10. As the prayer in the appeal is for expeditious disposal of the writ petition, we are of the view that no further orders will be necessary from our end, as the matter is already fixed for final hearing tomorrow. In the event the writ petition cannot be decided finally tomorrow for any reason, the learned Writ Court is requested to dispose of the same within a period of two weeks.

11. With the above observations and direction, the present appeal is disposed of.

(MOHAMMAD YOUSUF WANI)
JUDGE

(N. KOTISWAR SINGH)
CHIEF JUSTICE

SRINAGAR
27.03.2024
Junaid