

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

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WP(C) No. 822/2025

Suram Singh

.....Appellant(s)/Petitioner(s)

Through: Mr. G.S Thakur, Advocate.

vs

1. UT of J&K

..... Respondent(s)

Through Comm/Secretary,
Revenue Department,
Govt. of Jammu and Kashmir, Jammu.

2. Additional Deputy Commissioner
Jammu.

3. Sub-Divisional Magistrate,
Jammu South Jammu

4. Tehsildar
Tehsil Bahu District Jammu

5. Rajeev Singh
R/O Ward No. 49 Channi Rama Jammu
C/O Sub Divisional Magistrate, Jammu
South

Through: Mrs. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

07.04.2025

01. Petitioner, through the medium of this petition, seeks following reliefs:-

WRIT OF CERTIORARI: *Quashing the order no. SDM/JS/Compt/Bahu/2025/251-53 dated 17.03.2025 issued by the respondent no. 3 by virtue of which the respondent no. 4 has been directed to seize the property with respect to operation of the water pump and service centre.*

WRIT OF MANDAMUS: *Commanding the respondents to allow the petitioner to run the bore well and service station established after obtaining loan from the bank.*

WRIT OF PROHIBITION: *Prohibiting the respondents from interfering in the business established by the petitioner over the land falling under khasra no. 88 situated at Ward No. 49 Channi Rama pursuant to the permission granted by the Jal Shakti Department and the service Station established after obtaining loan from J&K Grameen Bank under PMEGP Scheme Sponsored by the Govt of India or seizing the property owned by the petitioner.*

Any other writ or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

02. Petitioner claims to be owner in possession of the land falling under khasra no. 88 measuring 17 kanals situate at ward no. 49 Channi Rama Jammu and he has installed/established Bore well over a portion of land pursuant to the permission granted by the competent authority i.e. Chief Engineer, Jal Shakti Jammu and his said unit is duly registered with the Jal Shakti Department vide no. PHEJ/DB/15256-61 dated 13.12.2021. In addition, he has also availed the electric connection from the Power Development Department and under Rules, he is regularly paying the tariff to the Department.

03. The case of the petitioner is that before obtaining the permission from the Jal Shakti Department, the Executive Engineer, PHE, granted him the NOC and accordingly the bore well was established. In pursuance to the aforesaid, the petitioner is conducting the business of the service station for washing of vehicles which has been registered under the J&K Shops and Establishment Act, 1966 vide registration no. 5163463523.

04. The petitioner further contends that a false and frivolous anonymous complaint was received by the respondent no. 2 against him, wherein it has been alleged that he has illegally established water pumping station, dumped construction material, and constructed a commercial building. As a result, he was directed to submit detailed reply, which was duly submitted to the competent authority. In the reply, it was clearly stated that the petitioner had established the bore well after obtaining the necessary permission from the Jal Shakti Department, and the service station is properly registered under the J&K Shops and Establishment Act.

05. It is specific case of the petitioner that regarding the issue of land use, the applicable rules do not apply to his case. The permission for the bore well was

granted and established in 2021, at which time no such permission was required. However, the Jammu Development Authority later amended the Master Plan, incorporating Clause 5.1 on Land Use, under which the use is now permitted. Despite this, respondents no. 2 and 3, without giving proper consideration to the reply submitted by the petitioner and without conducting any inquiry, issued the order dated 07.03.2025, which is impugned in the present petition.

06. Thus, according to Mr. Thakur, learned counsel for the petitioner, the finding recorded by the Sub-Divisional Magistrate, Jammu South, in the impugned order that the petitioner is carrying out commercial activities without obtaining the requisite change of land use, is devoid of proper consideration and is not sustainable in the eyes of the law. Insofar as the second allegation is concerned that the petitioner is selling 20-30 tankers per day and thereby conducting commercial activities without proper permission in a residential area, Mr. Thakur, denies this claim, stating that it is factually incorrect. Lastly, Mr. Thakur, submits that respondent, without according due consideration to the reply submitted by the petitioner in response to the anonymous complaint, has issued the order impugned which is not sustainable in the eyes of law and is liable to be quashed, as the petitioner has already obtained the necessary permission and the allegation regarding the requirement for a change of land use permission does not apply to the petitioner's case

07. Heard learned counsel for the petitioner and perused the record.

08. Issue notice.

09. Mrs. Monika Kohli, learned Sr. AAG accepts notice on behalf of the respondents.

10. At this stage, Mr. G.S Thakur, learned counsel for the petitioner, submits that he would be satisfied in case, the present petition is disposed of with a direction to the respondents to accord due consideration to the reply submitted by the petitioner, after giving an opportunity of being heard to him. He further requests that a committee be constituted afresh within some reasonable period, taking into account the permission already accorded in favour of the petitioner, to which learned counsel appearing for the respondents no. 1 to 4 has no objections.

11. With the consent of learned counsels for both parties, the instant petition is disposed of at the threshold by directing respondent no. 2, the Additional Deputy Commissioner, Jammu, to constitute committee afresh within one week, consisting of the Sub-Divisional Magistrate, Jammu South, a representative from the Jal Shakti Department, and the concerned Tehsildar (Tehsildar, Bahu District Jammu). Upon formation, the committee so constituted, will conduct a fresh inquiry regarding the allegations levelled by the residents of Ward No. 49 Channi Rama, Jammu, through Rajeev Singh (respondent no. 5), or any other stakeholder who may be aggrieved, by notifying the date in advance to all the stakeholders including complainant and petitioner by providing them an opportunity of being heard. The said committee will submit its report to the respondent no. 2 within two weeks thereafter and subject to the submission of the report by the said committee, the respondent no. 2 will take appropriate action and pass consideration order on the basis of such findings within one week, thereafter. The decision which is likely to be taken by respondent no. 2 be forwarded to the petitioner through Registered post.

12. Needless to say that while according due consideration, the committee will look into the permission already granted by the concerned Chief Engineer, as per

the Registration Certification dated 13.12.2021 in favour of the petitioner under Section 114 read with Rule 60 of Water Resources Regulation and Management Act 2010 and determine whether the bore well is being used strictly in accordance with the terms and conditions of such registration. The committee will also examine, whether a change of land use permission is required in the petitioner's case, considering the fact that the petitioner was granted valid permission in 2021 and whether the amendment carried in the Master Plan incorporating Clause 5.1 on land use, is applicable to the case of the petitioner or not.

13. Until a decision is made by the respondent no. 2 in the light of what has been discussed hereinabove, the status quo as it exists today shall be maintained. The further course of action will abide by the decision which is likely to be taken by the respondent no. 2.

14. At this stage, Mr. Thakur, submits that as on date, the order impugned has not been implemented and the property has not been seized.

15. In the aforesaid backdrop, it is made clear that in case property in question has not been seized till today, the position will remain unchanged until the aforesaid order is passed as has been directed hereinabove. Conversely, if the property has already been seized, it shall remain seized until the order is passed.

16. The petition is disposed of in the manner indicated above.

(Wasim Sadiq Nargal)
Judge

Jammu
07.04.2025
Abinash

Whether the order is speaking? Yes/No
Whether the order is reportable? Yes/No