

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

WP(C) No. 1404/2025
CM No. 3299/2025

Kewal Krishan Gupta

.....Petitioner(s)

Through: Mr. Amit Gupta, Advocate

Vs

UT of J&K & Ors.

..... Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER
31.05.2025

1. Through the medium of instant petition filed under the provisions of Article 226 of the Constitution of India, the petitioner has sought the following reliefs in his favour:

- i) Mandamus commanding and directing the respondents to refund/remit the premium amount of Rs.15,00,00/- (Rupees Fifteen Lacs only) along with interest at the rate of 12% from the date of the deposit of the amount i.e on 11.03.2019 till its actual realization in favour of the petitioner.
- ii) Any other appropriate writ, direction or order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner and against the respondents in the interest of justice.

2. The case of the petitioner in short is that he, being a permanent resident of the Union Territory of J&K and as citizen of India, was issued license for possession and retail sale of foreign liquor and Indian foreign liquor for consumption at the premises vide License No. 157/JKEL-2 for licensed premises at Chenani, Udhampur. That the respondent No.2 in order to arrest bootlegging, illicit distillation and in the interest of Government

revenue granted sub vend for retail vending of liquor in favour of the petitioner at Motor Shed Chenani, District Udhampur. Thereafter, the petitioner had been operating liquor sub vend at the aforesaid place and the license of the petitioner was also renewed from time to time till the year 2021-22. That the respondents vide SRO No. 128 dated 25.02.2019 issued the Excise Policy for the financial year 2019-2020 thereby inter alia providing vide clause 3.2.11 that the operational sub-vends shall be eligible for regularization after paying premium of Rs.15,00,00/- (Rupees Fifteen Lacs only) and regular license fee as notified from time to time, subject to fulfilling all requisite formalities in vogue for grant of a regular license. That the petitioner applied for regularization of the sub vend in pursuance of the aforesaid policy and also deposited the premium amount of Rs.15,00,00/- (Rupees Fifteen Lacs only) in favour of the J&K Government Excise Department vide collection ID No. 190311124445BDB dated 11.03.2019 which is clearly evident by the copy of the Easy Collect Receipt issued by the J&K Bank.

That although the process of regularization of the sub vend being operated by the petitioner herein was in pipeline and the petitioner had also completed all the requisite formalities, yet the respondents, in the meanwhile, came up with the new excise policy for the financial year 2021-2022, whereby the respondents were directed for open auction for all the liquor vends operating in the UT of J&K including the sub vends which were due for regularization. Consequently, with the coming into effect of the new excise policy for the year 2021-2022, the excise policy of 2019-2020 stood superseded, thereafter all the liquor vends, including the sub

vend of the petitioner, were put to open auction, as such, the petitioner has ceased to be a licensee and consequently has not been operating the said sub vend. That the petitioner approached the office of respondent No.2 for redressal of his grievance by way of a detailed representation dated 14.01.2025 for refund of the premium amount of Rs.15,00,00/- (Rupees Fifteen Lacs only), which had remained un-utilized due to the issuance of the new excise policy 2021-2022 as has been done by the respondents in similarly situated cases with identical facts and circumstances. That this Court vide orders dated 11.04.2023 and 03.06.2024 has already shown indulgence in similar situated cases being WP(C) No.288/2023 and WP(C) No. 1270/2024 respectively by directing the respondents to release the aforesaid premium amount within a period of two months, if there is no legal impediment for withholding the same. The illegal omission and blatant refusal on the part of the respondents to address the grievance of the petitioner has not only violated his fundamental and other legal rights but also project a sorrow state of affairs on the part of the government authorities to fairly and timely adjudicate upon the grievance raised by its people, leaving the petitioner with no other option except invoking the extraordinary jurisdiction of this Court.

3. Heard learned counsel for the petitioner who during his preliminary arguments, *inter alia* contended that the petitioner has deposited the entire premium amount Rs.15,00,00/- (Rupees Fifteen Lacs only) within the stipulated time in connection with the regularization of his sub-vend and there is no fault attributed to him. That the respondents have themselves committed the breach of their obligation by opting to auction the sub-vend

while being unmindful of the fact that the subject sub vend stood already dealt with, for which intentional omission, they have to account for admissible interest and heavy costs along with the refund of the deposited amount. Learned counsel also submitted that the Coordinate Benches of this Court have already in referred cases under similar situated matters, directed the respondents to release the deposited premium amount within a period of two months without there being any legal impediment in doing so.

4. In the facts and circumstances of the case, this Court is of the opinion that the matter can be disposed of even at this threshold stage without notice to the other side by passing the appropriate orders under law which are not likely to affect the legal interest of the respondents.
5. Accordingly, the instant petition is taken up for disposal at this stage and is accordingly, disposed of with the direction to the respondents to ensure the refund/reimbursement of the deposited premium amount of Rs.15,00,00/- (Rupees Fifteen Lacs only) in favour of the petitioner within a period of two months positively, provided there is no legal impediment in releasing the same.
6. ***Disposed of.***

(Mohd. Yousuf Wani)
Judge

Jammu
31.05.2025
Vijay

Whether the order is speaking: No
Whether the order is reportable: No