

Serial No. 118 Regular Cause List

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

**WP(C) 838/2024
CM(2173/2024) CM(4140/2025)
c/w i)CCP(S) 262/2024**

**1. FAROOQ AHMAD DAR
S/O GH. MOHD DAR**

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

R/O SIR SYEDABAD BEMINA SRINAGAR

Through: Ms. Syed Shabana, Advocate

Vs.

**1. UNION TERRITORY OF J AND K AND ORS.
(HEALTH AND MEDICAL EDUCATION.**

...Respondent(s)

**2. COMMISSIONER/SECRETARY TO GOVT.
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT, CIVIL SECTT.
SRINAGAR/JAMMU.**

**3. MANAGING DIRECTOR J&K HOUSING
BOARD, JAMMU/SRINAGAR.**

**4. DIRECTOR FINANCE J&K HOUSING BOARD,
JAMMU/SRINAGAR.**

**5. DEPUTY GENERAL MANAGER, J&K HOUSING
BOARD UNIT IT SRINAGAR.**

Through: Mr. Alla ud din, AAG

CORAM:

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

ORDER

22.07.2025

WP(C) 838/2024

1. The petitioner through the medium of the instant petition has sought the following reliefs: -

- a) *Issue a writ of Mandamus commanding the respondents to immediately release an amount of Rs.50.00 lacs in favour of the petitioner for which bills have submitted and verified on account of work executed by the petitioner i.e. "Construction of Sub-District Hospital Rohama Baramulla".*
- b) *Issue a Writ of Mandamus commanding the respondents to release the funds and allow the petitioner to complete the work so that the building is handed over to the respondents at an earliest.*

- c) *Issue a Writ of Mandamus commanding the respondents to release full and final payment in favour of the petitioner on account of work executed by the Petitioner i.e. "Construction of Sub-District Hospital Rohama Baramulla".*
- d) *Issue a Writ of Mandamus directing the respondents to pay 12% interest on the admitted amount from the date it became due to the Petitioner for illegally withholding the said amount.*
- e) *Any other Writ, order or direction which this Hon'ble court may deem fit and proper also be issued in favour of the petitioner and against the Respondents.*

2. The brief case of the petitioner is that the Jammu and Kashmir Housing Board in pursuant to the concurrence from the Government of India has authorized the petitioner for execution of the project namely construction of "Fifty Bedded Hospital at *Rohama*" vide allotment letter dated 15th December 2018 in pursuant to the technical sanction of the said project
3. The further case of the petitioner is that in pursuant to the said authorization by way of allotment order, the petitioner took charge of allotted work, who in turn mobilized men and machinery for completing the said work within the time frame. That in terms of the contract the petitioner completed 75% of the said work and accordingly, submitted bills within the framework of allotted amount and thereafter sought release of the payment from the respondents and the bills were duly verified by the respondent for the payments after checking the same physically at site.
4. In addition, the petitioner submits that since 53% work have been completed in February 2022 and in March 2024, 75% of the works have been completed and the completion certificates have also been given by the respondent Housing Board vide

letter dated 19th February 2022 followed by letter dated 26th March 2024. The further case of the petitioner is that despite the completion of above work to the extent of 75% and the verification made by the respondents, the admitted amount has not been released by the respondent.

5. It is the specific case of the petitioner that since 75% work have already been completed by the petitioner and pursuant thereto, the verification has been done by the respondents and the requisite bill have also been verified by the competent authority, therefore, the respondents were under legal obligation qua the petitioner to have made full and final payment in favour of the petitioner. However, the respondents instead of releasing the aforesaid payment have diverted the funds to other project with the result, that the work could not be completed despite the fact that the petitioner has purchased all the construction material and has taken huge amount of loan through Bank and the petitioner is burdened with the interest as well.
6. Feeling aggrieved of the inaction on part of the respondents, the petitioner has also filed a detailed representation in this regard for the release of the payment which was not been considered and feeling aggrieved of the same, the instant petition has been preferred.
7. The record reveals that the instant petition was listed before this court on 22nd April 2024 on which date the court has been pleased to issue notice to the respondents and in the

meanwhile, direction has been issued to the respondents to accord consideration to the release of the amount due to the petitioner for the execution of the work in question.

8. Since the aforesaid order was not complied with, the petitioner was constrained to file a contempt petition before this court which has been registered as CCP-262/2024 which has been clubbed with the instant petition in which notice was issued on 12th July 2024.
9. The respondents no. 2 to 5 have filed detailed statement of facts in the instant contempt petition in which the respondents have taken a specific stand that the order passed by this Court order dated 22nd April 2024 stands complied with. The respondents while filing the compliance report have also placed on record the detailed consideration order dated 16th July 2024.
10. From a bare perusal of the consideration order which has been part of the record along with the compliance report, it is apparently that the respondents have admitted the claim of the petitioner however, a specific stand has been taken that as when, the funds diverted are recouped from the project, where they have been diverted the same shall be released in favour of the petitioner.
11. Heard learned counsel for the petitioner at length and perused the record and also heard Mr. Alla ud din, AAG and Mr. *Laway* learned counsel appearing on behalf of the respondents. From a bare perusal of the stand taken by the

respondent in the consideration order, it is apparently clear that the stand taken by the petitioner in the instant petition stood vindicated, wherein, the petitioner has pleaded that the respondents have diverted the funds to some other projects and this was the precise reason that the amount by way of admitted liability has not been released in his favour in spite of the fact that the works stand executed and the bills were also verified by the competent authority. There is no legal impediment which could come in the way of the respondents to have released the said admitted liability in favour of the petitioner and non-availability of funds cannot be a ground to deny the relief to the petitioner.

12. Merely, that the funds have been diverted to some other project, petitioner can in no way be penalized for such action on the part of the respondents. The respondents in the consideration order have admitted the liability of the petitioner and there is no legal impediment as on date coming in the way of respondents to release the said admitted liability in favour of the petitioner. Thus, the respondents were under legal obligation qua the petitioner to have released admitted liability in favour of the petitioner forthwith subject to fulfillment of all the codal formalities and the verification of the bills which have already been done by the competent authority.

13. In the aforesaid backdrop and also in the light stand taken by the respondents in the instant contempt petition, no fruitful purpose will be served to keep the writ petition and

contempt petition pending. This court in the peculiar facts and circumstances of the case and also in the light of the stand taken by the respondents admitting the claim of the petitioner, this court deems it proper to allow instant petition by directing the respondent no.1 and 3 to 5 to release the admitted liability to the tune of Rs. 50.00 lacs in favour of the petitioner within a period of six weeks from the date of copy of this order along with the writ petition and annexures are made available to the said respondents subject to fulfillment of all the codal formalities and necessary verification.

14. It is further made clear that if the amount is not released within the aforesaid period, the petitioner will be entitled to the interest at the rate of 6% from the date the said amount was due and denied to the petitioner. The writ petition is allowed in the manner indicated above.

Contempt CCP-262/2024

In the light of the order passed by this court in the main petition, no fruitful purpose would be achieved to keep the instant contempt petition pending and accordingly this court deems it proper to close the proceedings in the contempt petition. Rule, if any, shall stand discharged.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:

22.07.2025

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