

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

Reserved on: 23.05.2025
Pronounced on: 24.07.2025

OWP No. 1809/2017 c/w
CCP(S) No. 24/2023

BASHIR AHMAD TELI.

Through: Mr. Shahbaz Sikander, Advocate.

Vs.

STATE OF J&K AND OTHERS.

Through: Mr. Mohsin. Qadri, Sr. AAG with
Ms. Maha Majeed, Assisting counsel.

WP(C) 1326/2023

FAROOQ AHMAD LONE AND OTHERS ...Petitioner(s)

Through: Mr. Gulzar Ahmad, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1093/2023

GULAM DIN BOKHAN ...Petitioner(s)

Through: Mr. M. Saleem Mir, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1268/2023

AVTAR SINGH ...Petitioner (s)

Through: Mr. Sheikh Manzoor, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1243/2023

GHULAM MUSTAFA MUGHAL ...Petitioner (s)

Through: Mr. S.M. Saleem, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1589/2023

MOHAMMAD YOUSUF AND ANR ...Petitioner (s)

Through: Mr. Ateeb Kanth, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1616/2023

GHULAM QADIR BHAT ...Petitioner (s)

Through: Mr. Usman Gani, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1223/2023

BASHIR AHMAD BAJAR ...Petitioner (s)

Through: Mr. Mansoor Ahmad, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 246/2024

GHULAM AHMAD BHAT ...Petitioner (s)

Through: Mr. Bhat Fayaz, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1870/2023

ABDUL RASHID MIR AND ORS ...Petitioner (s)

Through: Mr. Waseem Ramzan Lone, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1785/2023

MUNEER AHMAD KHAN ...Petitioner(s)

Through: Mr. Parvaiz Nazir, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1720/2023

MOHAMMAD ASLAM GANAIE ...Petitioner (s)

Through: Mr. Gulzar Ahmad Bhat, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1863/2023

FAYAZ AHMAD KHANDAY ...Petitioner(s)

Through: Mr. Shah Ashiq Hussain, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 843/2024

MANZOOR AHMAD DAR AND ORS ...Petitioner (s)

Through: Ms. Tabassum, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 363/2024

ASHIQ HUSSAIN GANAIE AND ORS. ...Petitioner (s)

Through: Ms. Tabassum, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 945/2023

SUBA CHACHI ...Petitioner (s)

Through: Mr. Waqar Ul Haq, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1647/2023

HILAL AHMAD KHAN AND ORS ...Petitioner(s)

Through: Mr. Ahsan Ul Haq, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 247/2023

GHULAM MOHAMMAD DAR ...Petitioner(s)

Through: Mr. Showat Ah. Makroo, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 654/2023

MOHAMMAD MAQBOOL NAIKOO AND OTHERS
...Petitioner/Appellant(s)

Through: Mr. Waqar Ul Khan, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 854/2023

MUSHTAQ AHMAD MIR ...Petitioner(s)

Through: Mr. Parvez Ahmad Wani, Advocate

Vs.

GOVERNMENT OF J AND K AND ORS ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 997/2023

SARWAR PASWAL ...Petitioner (s)

Through: Mr. M. Saleem Mir, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 956/2023 c/w W(C)1452/2023

1. FAROOQ AHMAD THOKAR &

2. MOHAMMAD YASEEN PAUL & ORS. ...Petitioner(s)

Through: Mr. Ahsan Ul HAq, Advocate

Vs.

UT OF J AND K AND ORS ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 718/2023

Gh. Mohi UD Din Ganai ...Petitioner(s)

Through: Mr. Waqar Ul Haq, Advocate

Vs.

UT OF J AND K AND ORS

...Respondent(s)

Through: Mr. Mohsin Qadri, Sr. AAG.

WP(C) 1053/2023

Mohammad Maqbool Mir

...Petitioner(s)

Through: Mr. S.A Geelanli, Advocate

Vs.

UT OF J AND K AND ORS

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 567/2023

Khazir Mohammad Payer & Ors.

...Petitioner(s)

Mr. T.A Lone, Advocate

Vs.

UT OF J AND K AND ORS

...Respondent(s)

Mr. Mohsin Qadri, Sr. AAG

WP(C) 892/2023

Fayaz Ahmad Mir & Anr.

...Petitioner(s)

Through: Mr. Shahbaz Sikander, Advocate

Vs.

UT OF J AND K AND ORS

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 863/2023

Abdul Hamid Bhat

...Petitioner (s)

Through: Mr. Waqar Ul Haq, Advocate

Vs.

UT OF J AND K AND ORS

...Respondent(s)

Through: Mr. Mohsin Qadri, Sr. AAG

***WP(C) 1108/2023 c/w
CCP(S) 454/2023***

LIYAKAT ALI BADANA AND OTHERS

...Petitioner(s)

Through: Mr. Sheikh Manzoor, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS.

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1334/2023

ABDUL HAMID KHAN ...Petitioner(s)

Through: Mr. S.M. Saleem, Advocate

Vs.

UT OF J AND K AND ORS ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1079/2023

ASHIQ HUSSAIN GANIE AND ORS ...Petitioner(s)

Through: Mr. Waseem Ramzan, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

OWP 1652/2018

MOHAMMAD YOUSUF GOJER QURESHI ...Petitioner(s)

Through: Mr. S. A. Makroo, Sr. Advocate with
Mr. Danish, Advocate

Vs.

STATE OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Mohsin Qadri, Sr. AAG.
Mr. Allau din Ganie, AAG.

WP(C) 982/2023

NAZIR AHMAD RAINA ...Petitioner (s)

Through: Mr. Muzaffar Nabi Lone, Advocate

Vs.

DIVISIONAL COMMISSIONER KASHMIR AND OTHERS.
...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 879/2023

SHAKEEL AHMAD KHAN AND ORS. ...Petitioner(s)

Through: Mr. Ahsaan, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

**WP(C) 144/2024 c/w
CCP(S) No. 117/2024.**

ALL INDIA LUMBERDARS ASSOCIATION ...Petitioner(s)

Through: Mr. Ateeb Kanth, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 824/2023

SAJAD AHMAD BHAT AND ORS ...Petitioner(s)

Through: Mr. Shahbaz Sikandar, Advocate.

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1263/2023

SIRAJ UD DIN KALOO ...Petitioner (s)

Through: Mr. Mubashir Ahmad Gatoo, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

WP(C) 1048/2023

MOHAMMAD IQBAL TASS ...Petitioner(s)

Through: Mr. Syed Sajad Geelani, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

CORAM:

HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. In all these petitions, common issues were involved, as such were heard together and are being disposed of by this common judgment.
2. The facts are extracted from the writ petition bearing OWP No. 1809/2017, being the first writ petition filed for assailing SRO No. 412 dated 29.09.2017.
3. The petitioners, claiming to have been appointed as Lambardars otherwise than by election under the provisions of the Jammu and Kashmir Lambardari Act, 1972 (hereinafter referred to as 'the Act') along with the Jammu and Kashmir Lambardari Rules, 1980

(hereinafter referred to as 'the Rules'), have assailed SRO No. 412 dated 29.09.2017 issued by the respondent No. 2, to the extent of deletion of Sub-Rule 5 of Rule 16 of the Rules and for directing the respondents not to dislodge the petitioners from their respective offices of Lambardar.

4. The challenge to SRO 412 dated 29.09.2017 has been thrown on the grounds that the same is in violation of rights guaranteed under Articles 14 and 16 of the Constitution of India and with the deletion of Sub-Rule 5 of Rule 16, of the Rules a vested right of the petitioners, in terms of the Un-Amended Rule-16 of the Rules, which had the effect of allowing the Lambardars to continue in their office till death or dismissal in terms of Rule 9 or till conducting of general elections as prescribed under Rule 14 of the Rules, has been snatched away by the respondents.
5. The respondents have filed the response, stating therein that Section 6 of the Act gives power to the Government to make Rules so as to carry out the purpose of the Act and in terms of section 6 of the Act, the Government vide Notification SRO 363 of 1980 notified the Jammu and Kashmir Lambardari Rules, 1980. As per the Rules, a Lambardar is required to be elected by the general public and the term of office of the Lambardar has been fixed 5 years only. Sub-Rule 5 of Rule 16 of the Rules provided that Lambardar appointed otherwise than by election can hold the office till he dies or is dismissed/discharged or till the general election for the office of Lambardar is held. Thus, it is clear that a Lambardar can hold the office till general election for such office is held. The petitioners cannot claim that they should be allowed to continue till death or

dismissal. In fact, the Rules provide only 5 years term of office for Lambardar. In order to remove ambiguity in the Rules and make the Rules, 1980 consistent with the Act, after thorough discussions, the Government vide SRO 412 of 2017 effected some amendments in Rules 3, 5, 11, 14,16 and 17 of the Rules. It is further stated that the respondents have not gone beyond the statutory powers as conferred under the Act and as per SRO 412 of 2017, the term of office of the Lambardar has been fixed for 5 years or till he attains the age of 60 years, whichever is earlier. Due to prevailing conditions, elections could not be held against the post of Lambardar and in some areas due to death/resignation etc. of an existing Lambardar, some nominations/appointments have been made against the posts of Lambardar till elections are held. The petitioners cannot claim that they are entitled to hold the posts of Lambardar till their death, when they have not been elected by the people of the area.

6. Learned senior counsel and other counsel for the petitioners have argued that under the un-amended Rules, the petitioners had vested right to hold the office of Lambardar till elections are held and by deleting the sub-rule 5 of Rule 16, the respondents have snatched the vested right of the petitioners to continue to hold the office of Lambardar till the elections are held.
7. Mr. Mohsin Qadri, learned senior A.A.G, has argued that no right was vested in the petitioners to continue as Lambardars till holding of elections. He submits that even in case of elected Lambardars, the outgoing Lambardar can continue till the election of his successor, but Government can also direct otherwise. He has further argued that no

person holding the office of Lambardar can continue beyond the age of 60 years.

8. Heard learned counsel for the parties and perused the record.
9. Before this Court proceeds ahead to determine the controversy, it is appropriate to take note of the fact that in all these petitions, challenge has been thrown to deletion of Sub-Rule 5 of Rule 16 of the Rules only.
10. This is an admitted position that Section 6 of the J&K Lambardari Act vests power with the Government to make rules for various matters including the procedure for election or appointment of Lambardars and the petitioners have also not disputed the rule making power of the Government. Their sole contention is that by deletion of Sub-Rule 5 of Rule 16 of the Rules, the Government has snatched away the vested rights of the petitioners to continue as Lambardar till the holding of elections and a Lambardar could have continued in the office of Lambardar till his death unless dismissed in accordance with Rules.
11. The rules relevant for understanding and adjudicating the controversy at hand are extracted as under:

“11. Temporary appointment of a substitute and his duties:

(1) The Tehsildar may appoint a substitute in place of the Lambardar placed under suspension under rule 8 or 10, as the case may be.

(2) In case a Lambardar remains, with the permission of the Tehsildar, absent by reason of sickness or any other reason for the period exceeding six months or is unable to perform the duties imposed upon him under these rules, a substitute may be appointed in his place [for a period not exceeding six months. However, in exceptional cases, the period of six months can be extended with the prior approval of District Collector].

(3) A substitute (Lambardar) appointed under the above sub rules shall be entitled to the remuneration payable or

the amounts to be recovered by him during the period of suspension of a Lambardar and perform all duties mentioned in rule 6.

14. Elections

(1) A general election of Lambardar shall be held in accordance with these rules, within such time and within such areas as may be prescribed by the Revenue Minister by a Notification in the Government Gazette.

(2) Deleted

(3) Where a vacancy is ordered to be filled by election, such election shall take place in accordance with these rules and the Revenue Minister may, in respect of the vacancy so filled by selection, order, that no fresh election shall take place till the next election or till the constituency again falls vacant.

(4) Subject to the provisions of clause (a) where the vacancy is not filled by election, the appointment to a vacant post of Lambardar shall be made by the Revenue Officer not below the rank of Tehsildar subject to confirmation by the Collector for a period not exceeding 6 months:

Provided that the appointee, shall possess all the qualifications prescribed in this behalf and shall not suffer from any disabilities that apply to the election of the Lambardar.

Un-amended Rule 16:

Term of office of Lambardar

(1) The term of office for which Lambardar shall be elected shall not ordinarily exceed five years.

(2) An outgoing Lambardar shall, unless the Government otherwise direct, continue in office until the election of his successor is announced.

(3) An outgoing member may, if otherwise qualified, be re-elected.

(4) When as a result of any enquiry held under these rules an order declaring the election of any Lambardar void has been announced, such Lambardar shall forthwith cease to hold his office.

(5) When a Lambardar is appointed otherwise than by election he shall continue till he dies or is dismissed/ discharged or till the general election of Lambardars is held.

Amended Rule 16:

Term of office of Lambardar:

(1) The term of office for which Lambardar may be elected shall be 5 years or till he attains the age of 60 years, whichever is earlier.

(2) An outgoing Lambardar shall, unless the Government otherwise direct, continue in office till the election of his successor.

(3) An outgoing member may, if otherwise qualified, be eligible for contesting the election.

(4) When as a result of any enquiry held under these rules, an order declaring the election of any Lambardar void has been announced, such Lambardar shall forthwith cease to hold his office”

10. Rule 14 of the Rules provides that a general election of Lambardar shall be held in accordance with these rules and in terms of amended Rule 16 of the Rules, the term for which the Lambardar shall be elected is 5 years or till he attains age of 60 years, whichever is earlier. No challenge has been thrown to the amendment made in Sub-Rule 1 of Rule 16 of the Rules. When the elected Lambardar cannot continue beyond the age of 60 years, then the appointed/nominated Lambardars also cannot continue beyond the age of 60 years.
11. The petitioners are aggrieved of deletion of Sub-Rule 5 of Rule 16 only. The petitioners are admittedly not the elected Lambardars but were appointed otherwise than by election. Lambardar has been assigned certain duties and office of Lambardar is not a source for providing employment unlike the services under the Central/State/UT Governments.
12. In ‘Mahavir Singh v. Khiali Ram, (2009) 3 SCC 439’, the Hon’ble Supreme Court of India has held that although the post of Lambardar is governed by the provisions of the Punjab Land Revenue Act and the Rules framed there-under, holder of the said post is not a Government servant. He does not hold a civil

post within the meaning of Article 309 of the Constitution of India. This proposition of law was reiterated by the Hon'ble Supreme Court of India in 'Anokh Singh v. Punjab State Election Commission, (2011) 11 SCC 181'.

13. The petitioners as such cannot claim the violation of Article 16 of Constitution of India. The petitioners never had any absolute, unconditional vested right to continue to hold the office of Lambardar indefinitely and none of their rights have been violated with the deletion of Sub-Rule 5 of Rule 16 of the Rules. Sub-Rule 5 of Rule 16 of the Rules was a mere concession granted to the appointed Lambardars to continue as Lambardars till death/dismissal/discharge/ elections. The SRO impugned was stayed in the year 2017, as a result of which no elections could be conducted for the office of Lambardars and in the interregnum; the respondents have made numerous temporary appointments to the office of Lambardars.
14. The term of office of elected Lambardar under the un-amended Rules was ordinarily not exceeding 5 years, but now, the elected Lambardar cannot continue in office in any case beyond the age of sixty years. This Court has come across number of cases, where the Lambardars, who despite having crossed the age of 80 years, had filed the writ petitions apprehending their replacement.
15. The appointment of the petitioners was not permanent. Even in case of elected Lambardars, the Government has retained the power to direct otherwise than continuance of outgoing Lambardars till election of their successors, in terms of Rule 16

(2) of the Rules. The position of the petitioners cannot be better than the elected Lambardars. In fact, by challenging the SRO 412, the petitioners have stalled the process of election of Lambardars. Under the amended Rule 14 (4) of Rules of 1980, the appointment to a vacant post of Lambardar cannot be made for a period beyond 6 months.

16. It needs to be noted that a substitute may be appointed by the Tehsildar in place of a Lambardar who is suspended under Rule 8 or 10 of the Rules. Further, in case a Lambardar remains, with the permission of Tehsildar, absent by reason of sickness or any other reason for the period exceeding 6 months or is unable to perform the duties imposed upon him under these Rules, a substitute may be appointed in his place for a period not exceeding 6 months. However, in exceptional cases, the period of 6 months can be extended with the prior approval of District Collector.
17. The casual vacancy can be filled by nomination in terms of Rule 17 of the Rules for a period not exceeding 6 months. This exceptional power can be resorted to only in case where unelected Lambardar is appointed in terms of Rule 11 of the Rules.
18. The amendment has been made in the Rules of 1980 so as to limit the time period of holding office of Lambardar by a substituted/appointed/ nominated Lambardars. In many cases, the appointed Lambardars have continued in the office for more than decades. In fact, this is a welcome step on the part of Government in streamlining the appointment / election/

nomination of Lamabardars. It is worthwhile to mention that no orders in respect of removal of petitioners were issued by the Government and also no elections for the office of Lumbardars were notified by the Government, but the petitioners, apprehending their removal, have filed these petitions in anticipation to stall the process of election which is nothing but an abuse of process of law.

19. In view of what has been said, discussed and observed above, these petitions are found to be misconceived and the same are ***dismissed***. The respondents are left free to hold elections in accordance with Rules. It is hoped that the respondents would strictly follow the mandate of Rules while making temporary appointments of Lambardars.
20. Interim direction(s), if any, passed in the aforesaid matters shall also stand vacated.
21. Registry to place a copy of this order on each file for the purposes of record.

(RAJNESH OSWAL)

JUDGE

SRINAGAR

24.07.2025

"Ab. Rashid"

Whether the judgment is approved for reporting: Yes/No.