

IN HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C)No. 1585/2025

M/S. Mohammad Abdullah Sheikh

...Petitioner(s)

Through: Ms Arifa Jan, Advocate

Vs.

UT of JK and Ors. .

...Respondent(s)

Through:

CORAM:

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

ORDER
09.07.2025

01. Learned counsel for the petitioner submits that the instant petition can be disposed of by directing the respondents to treat the same as representation and accord consideration thereon within some time frame in accordance with law.
02. At this stage, Mr. Faheem Nisar Shah, learned GA, appears and submits that he has no objection in case the instant writ petition by treating the same as representation but strictly under rules and as per the law.
03. Accordingly, with the consent of learned counsel for the parties, the instant writ petition is disposed of at its threshold by directing the respondents to treat the same as representation and accord consideration thereon strictly as per rules and in accordance with law within a period of six weeks from the date a copy of this Order along with writ petition as also the enclosed Annexures are made available to them.

04. The respondents, while according consideration to the case of the petitioner, shall also give due weightage to the communication dated 18th February, 2021, issued by the Executive Engineer, J&K Tourism Development Corporation Ltd, by virtue of which, a request has been made for release of payment in favour of the petitioner after proper verification of the bill submitted by the petitioner and has been placed on record as Annexure-III.
05. Needless to say, that the copy order of consideration which is likely to be passed by the respondents be forwarded to the petitioner through registered post against the proper receipt.
06. **Disposed of** with the aforesaid observations.
07. Before parting with the instant matter, it may be mentioned that this Court day in and day out has been observing that the Lawyers, who have been assigned various departments on behalf of the Government, are not appearing regularly before this Court in the first half. This Court has already shown concern and conveyed to Mr. Mohsin Qadiri, as well as Mr. A.R.Malik, learned Sr. AAGs' to make necessary arrangement with regard to regular appearance of Government Lawyers engaged in the matters which are listed before this Court so that an effective assistance is rendered and interest of the Government is protected
08. Today again, the court proceedings began without any representation from the Government side and in the aforesaid backdrop, this Court has been constrained to convey the concern of this Court to Chief Secretary and Law Secretary so that necessary measures are taken to render effective assistance by the Lawyers engaged in the matters.

09. Previously also, this Court vide Order dated 21st May, 2025, has shown concern with regard to the non-appearance of Government counsels to Secretary Law, Department of Law, Justice and Parliamentary Affairs, J&K, Mr. Achal Sethi, who was directed to appear in person, ensured that an appropriate mechanism will be put in place to monitor the representation of all Government Advocates in the matters listed before this Court for the departments assigned to them. Accordingly, the matter was directed to be listed on 22nd May, 2025. For facility of reference the relevant para-3 and para-4 of Order dated 21st May, 2025 is reproduced as under:-

“03. In legal proceedings, the non-appearance of a government Advocate, particularly without a valid reason or proper justification, can be interpreted as a breach of duty and potentially lead to adverse consequences for the Government or the relevant party. Such an action could be seen as a failure to fulfill their responsibilities and may result in the case being decided against them, especially if the non-appearance is deemed to be intentional or prejudicial to the other party. Thus, the non-appearance of a Government Advocate might be viewed as equivalent to a failure to meet their professional obligations or a lack of diligence which could have serious repercussions in the legal proceedings.

04. Even the non-appearance of the Government Advocates has already been viewed seriously by the Hon’ble Division Bench of this Court in case titled Farid Ahmad vs. State of Jammu and Kashmir registered as CRA No. 17/2010, wherein expressing displeasure the following has observed vide Order dated 23rd July, 2024:-

“....From tomorrow onwards, i.e. 24.07.2024, if the counsels for the Union Territory Government is not present before this Court and reason for their absence is on account of his appearance before another Hon’ble Court on the ground of appearing for a particular department, this Court shall be at liberty to impose a cost on the State of Rs. 5,000/- or more at the very first instance. This order is being passed out of sheer exasperation that this Court has experienced for more than a year, where repeatedly when matters are called out and the Court is ready to hear and decide the matter, the same cannot culminate in any effective hearing on account of the absence of the counsel for the Union Territory Government and the matter is passed over in the first round and 3 CRA No. 17/2010 thereafter when the counsel is available to argue the matter, the Court may be in the midst of hearing another case and therefore, the case gets adjourned on account of the non-availability of the counsel for the State/UT.”

10. Thereafter, when the matter was taken up on 22nd May, 2025, Mr. Achal Sethi, Secretary, Department of Law Justice and Parliamentary Affairs, who was present in person by virtue of Order dated 21st May, 2025, assured this Court that an appropriate mechanism with regard to the appearance of the Government Advocates duly engaged for various departments shall be put in place to render effective assistance in all the Courts. For facility of reference, the Order dated 22nd May, 2025, is reproduced as under:-

“When this case was taken up yesterday i.e., 21st May, 2025, there was no representation on behalf of the respondents and this Court directed the personal appearance of Secretary, Department of Law Justice and Parliamentary Affairs with a view to ensure proper assistance of the Government Advocates in this Court.

By virtue of the aforesaid Order, Mr. Achal Sethi, Secretary, Department of Law Justice and Parliamentary Affairs, who is present in person, assures this Court that an appropriate mechanism with regard to the appearance of the Government Advocates duly engaged for various departments shall be put in place to render effective assistance in all the Courts.

In the light of the assurance extended by the aforesaid Authority, this Court expects that in future a proper and effective assistance shall be rendered by the Advocates representing the Union Territory of J&K.”

11. In spite of assurance extended by Law Secretary, Department of Law Justice and Parliamentary Affairs, in terms of Order dated 21st May, 2025, the position remains the same and the proper assistance

as directed in the earlier order is still not rendered in all the cases by the Government Advocates, which is not in the interest of Government and hampering the administration of justice. Thus, it is the need of the hour that corrective measures are taken at the earliest by the Chief Secretary in consultation with Law Secretary so that the dispensation of justice is not hampered.

12. This Court hopes and trusts that the needful is done by the aforesaid Authorities without any further delay and the sincere endeavor to be made in this regard will be highly appreciable.

13. The observations made in this Order are only an attempt to streamline the representation of Government Advocates in the matters assigned to them.

14. Registry to convey this Order to Chief Secretary, Union Territory of Jammu and Kashmir, as well as Law Secretary, Department of Law Justice and Parliamentary Affairs for its immediate compliance.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
09.07.2025
"Shamim Dar"