

Serial No.4
Regular Causelist

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

WP(C) 1918/2021

Fayaz Ahmad Naik and Anr. ...Petitioner(s)/Appellant(s)

Through: Mr. S.A. Makroo, Sr. Advocate with
Mr. Rahil Noor, Advocate &
Mr. Irfan Rasool, Advocate

Vs.

Union Territory of J&K and Ors. ...Respondent(s)

Through: Mr. Jahingeer Ahmad Dar, GA

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

11.09.2025

1. This petition is disposed of with a direction to the Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar to consider and make a merit based decision on the facts reported by the Executive Engineer, Irrigation Division, Kulgam vide his communication No. **KID/2678-79** dated **17.08.2021**.

2. The communication itself is self-speaking about the fact that the works identified therein came to be

executed in the year 2017 in the interest of the General Public.

3. The respondent No. 2- Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar was otherwise supposed to have taken a call on said communication of the Executive Engineer, Irrigation Division, Kulgam which was in response to the Chief Engineer's own letter No. **CE/I&FC/PS/1586** dated **12.08.2021**.

4. It is after said communication of the Executive Engineer, Irrigation Division, Kulgam to the Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar that the institution of the present writ petition came to take place on **22.09.2021**.

5. In reply to the writ petition, reportedly attributed to all the respondents but actually supported by an affidavit of Mr. Mehrajudin Rather-Executive Engineer, Irrigation Division, Kulgam, the aforesaid communication of Executive Engineer, Irrigation Division, Kulgam to Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar has not at all been dealt with as to what decision the Chief Engineer came to take viz-a-viz this communication.

6. It cannot be heard to be said by the respondents that the works as mentioned by the Executive Engineer, Irrigation Division, Kulgam in his communication had not been executed be it with or without any prior proper permission/authorization, thereby absolving liability of the Government to pay the amount in favour of the contractors having executed the works.

7. This Court cannot substitute itself in place of the Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar to take a call on the said communication of the Executive Engineer, Irrigation Division, Kulgam. At best, this Court can examine a final decision of the Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar upon being taken in the matter and/or if the Chief Engineer would have actually taken a call on the said communication of the Executive Engineer, Irrigation Division, Kulgam.

8. In view of the aforesaid, this writ petition is disposed of with a direction to the respondent No. 2-Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar to consider the communication of the Executive Engineer, Irrigation Division, Kulgam bearing **No. KID/2678-79** dated **17.08.2021** and pass a

reasoned order, whereupon if the petitioners would still feel themselves aggrieved on account of being deprived of the purported admitted liability amount, the petitioners would be well within their right to approach this Court with a fresh writ petition.

9. The petitioners would also be entitled to be heard in the matter by the Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar.

10. Needful exercise be done by the Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar within a period of one month from the date a copy of this order gets provided by Mr. Jahingeer Ahmad Dar, learned GA to Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar. In any eventuality, the needful be done by the Chief Engineer, Irrigation and Flood Control Department, Rajbagh Srinagar on or before the **31st October, 2025.**

11. Disposed of.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

11.09.2025

"Mir Arif"