

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

WP(C) 1704/2022

Abdul Aziz Ahangar.

...Petitioner(s)

Through: Mr. Syed Mohtasim, Advocate.

Vs.

Union Territory of J&K and Others.

...Respondent(s)

Through: Ms. Nadiya Abdullah, Assisting Counsel vice
Mr. Mohsin S. Qadri, Sr. AAG.

CORAM:

Hon'ble Mr. Justice Wasim Sadiq Nargal, Judge.

ORDER

13.05.2025

01. The petitioner through the medium of the instant petition, is seeking a direction against the respondents to pay him the balance amount of Rs. 45,127/- with further direction against the respondents to pay interest on delayed payment and also the costs.

02. The amount which is being claimed by the petitioner by virtue of the instant petition is disputed by the respondents in Paragraph 4 of their reply affidavit.

03. It is settled position of law that the writ petition involving disputed questions of fact, cannot be gone into

while exercising the writ jurisdiction. More so the learned counsel for the petitioner is placing reliance upon an order dated 9th August, 2018 passed by this Court in OWP No. 407/2011 in the earlier round of litigation, by virtue of which, the said writ petition was disposed of with direction to the respondent No. 2-Inspector General of Police Kashmir Zone, Srinagar, or such other competent authority to determine the amount of compensation payable as per the relevant rules and pay the same to the petitioner forthwith and there was no such stipulation to pay interest on delayed payment.

04. The respondents in compliance to the aforesaid order, paid an amount of Rs. 1,47,018/- to the petitioner through cheque, except voucher dated 17th December, 2008 amounting to Rs. 45,127/- of Motor Hop Sangrama, Sopore, which has not been verified as the said shop was not existing at the given location.

05. Heard learned counsel for the parties and perused the record.

06. With the consent of the learned counsel for the parties, the instant petition is taken up for final disposal.

07. The amount which has been claimed by the petitioner is payable by the respondents, cannot be adjudicated while exercising jurisdiction under Article 226 of the Constitution of India. The petitioner instead of

availing appropriate remedy under law, has chosen to file the instant writ petition, which involves disputed questions of fact and on this ground, the writ petition deserves dismissal.

08. Even otherwise also, the petitioner has not come to the Court with clean hands and has also suppressed material facts and on this ground also, the writ petition merits a dismissal, as has been pleaded by the respondents by way of preliminary objection, while filing the reply affidavit.

09. As per the stand of the respondents, the loss caused to the vehicle of the petitioner as per the bills pertaining to the repairment of the vehicle, has been assessed/verified by the Survey Committee, which stand calculated to the tune of Rs. 1,47,018/-, except Voucher dated 14th December, 2008 amounting to Rs. 45,127/- of Motor Hop Sangrama, Sopore, which has not been verified as the said shop according to the respondents has not been existing on the given location and the amount which has been verified and assessed, has already been paid to the petitioner through cheque. That whatever amount was payable to the petitioner as verified by the Survey Committee, has already been paid to the petitioner pertaining to the repairment of the vehicle in question to the tune of Rs. 1,47,018/- and the claim of the petitioner with regard to the interest/damages from the Police

Department, is not tenable in the eyes of law, as there is no such stipulation in the order on which reliance has been placed by the learned counsel for the petitioner, passed in OWP No. 407/2011, for payment of such interest on the delayed payment.

10. In view of the above, this writ petition is held to be without any merit and the same deserves dismissal. Accordingly, the instant writ petition shall stand ***dismissed*** along with connected applications, as being bereft of any merit.

(Wasim Sadiq Nargal)
Judge

SRINAGAR:

13.05.2025

"HAMID"

