

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

WP(C) 2015/2025

SAQLAIN RAFIQ AND ANR. ...Petitioner/Appellant(s)

Through: Mr. Showkat Ahmad Makroo, Sr. Advocate with
Mr. Rahil Noor, Advocate

Vs.

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

Through: Mr. Shah Ashiq Hussain, Advocate
Ms. Nadia Abdulla, Advocate

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

20.08.2025

Caveat No. 2104/2025

This caveat application has been filed by Muzamil Ahmad Kelam and Shabir Ahmad Kelam sons of Abdul Rehman Kelam R/o Verinag, Tehsil Dooru, District Anantnag, who have not been impleaded as party respondents in the case. In the ends of justice, this Court is convinced to give an opportunity of being heard to the learned counsel for the caveators notwithstanding their impleadment in the case. Caveat is discharged.

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1. Ms. Nadia Abdulla, Advocate appears and accepts notice on behalf of respondents 1 to 12.
2. Heard.
3. The petitioners through the medium of instant petition filed under Article 226 of the Constitution of India have sought the issuance of

writs/directions in the nature of mandamus for commanding upon the respondents to take a decision on their application bearing No. 5691158 dated 15-07-2025 regarding issuance of, “**consent to operate**” and in the meanwhile to allow them to operate their unit under the name and style of M/S Kelam Enterprises.

4. The case of the petitioners in nutshell is that their grandfather established a Rice Husker and edible oil extracting machine in the year 1986-87 in order to earn his livelihood and to cater the needs of the general public. That after the demise of their grandfather, they wanted to rationalize the said unit on modern lines in furtherance whereof they applied under the Prime Ministers Employment Generation Programme (PMEGP) for establishing mini rice mill/unit, which was eventually sanctioned. That all the departments issued NOCs for the purpose of running the said unit. That their aforesaid unit under pollution laws falls under the “Green category”. That initially their application for the “**consent to operate**” was rejected, however, the reasons for rejection were not communicated to them. That in the meanwhile they came to know that their application earlier filed was suffering from certain deficiencies which were not communicated to them as required under Government order bearing No. JKPCC of 2022 dated 19-07-2022. That instead of apprising the petitioners about the deficiencies in their earlier application, they rejected the same in violation of the Government order dated 19-07-2022. That they have now applied afresh under the application No. 5691158 dated 15-07-2025, which has not been decided despite the issuance of notice of demand and spot inspection. That their unit is not being allowed to operate as electricity supply to the same has been snapped.

5. Heard the learned counsel for the petitioners who reiterated his stand taken in the petition.

6. Mr. Ashiq Hussain, Advocate, who is on caveat on behalf of Muzamil Ahmad Kelam and Shabir Ahmad Kelam both sons of Abdul Rehman Kelam, R/o Verinag, Tehsil Dooru, District Anantnag, despite their impleadment in the case, was heard in the ends of justice. It is submitted by the learned counsel for the caveators that the earlier petitions filed by the petitioners on the same subject matter are still pending before this Court. He further contended that the respondent No. 12 has issued a demolition notice in respect of the petitioners' unit vide notice dated 05-09-2023. The learned counsel further submitted that the petitioners' unit is within the residential area and is a source of noise pollution. That the Pollution Control Board has accordingly rejected the earlier application of the petitioners for issuance of consent to operate.

7. The learned counsel for the petitioners in rebuttal again submitted that the earlier petitions pending before this Court assailed the earlier order of the Pollution Control Board rejecting the application of the petitioners for issuance of consent to operate on the ground of some deficiencies. That the petitioners have now filed the fresh application dated 15-07-2025 which is pending disposal and is sought to be expeditiously disposed of.

8. It is not disputed that the fresh application of the petitioners for issuance of **“consent to operate”** is still pending before the respondent No. 3. The caveators or any other interested person is within his rights to register their protest/objections with the respondents 2 and 3 in respect of the subject matter.

9. In the facts and circumstances of the case, the Court is of the opinion that the matter can be disposed of at this threshold stage by passing of some

appropriate direction which is not likely to prejudice the rights of any of the parties.

10. Accordingly, the instant petition is disposed of at this stage with the direction to the respondent No. 2, 3 and 6 to address the pending application of the petitioners dated 15-07-2025 in accordance with the law at an earliest.

11. Disposed of.

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR:

20.08.2025

Akshil Dev

