

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP 1677/2017.

RAYEES AHMAD NAJAR AND ORS.

...Petitioner(s)

Through: Mr. Rizwan Un Zaman, Advocate.

VERSUS

UNION OF INDIA AND ORS.

Through: Mr. Illyas Laway, GA.
Mr. Faheem Nisar Shah, GA.
Ms. Bisma Ali, Advocate and
Mr. Faizan Ahmad Ganie, CGC vice
Mr. T. M. Shamsi, DSGI for R1,5 & 6.

...Respondent(s)

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER

02.09.2025

01. This is a second round of legal proceedings in a writ petition initiated by the petitioners, who were all writ petitioners in writ petition **OWP No. 975/2014** which came to be disposed of in terms of an order dated **08.07.2015** whereby the writ respondents 1 to 4 in said writ petition **OWP No. 975/2014** came to be directed to take steps for the rehabilitation of the petitioners in terms of policy, if any, in vogue regarding

rehabilitation of shopkeepers removed in connection with construction/widening of Sinthan-Kistwar-Anantnag, National Highway. It further came to be directed that the writ respondents 1 to 4 therein upon working out the details of the rehabilitation scheme would be free to approach writ respondents 5 and 6 therein for the release of funds and whereupon the said two writ respondents 5 and 6 were to consider the request made in accordance with the rules.

02. The disposal of the writ petition **OWP No. 975/2014** in this manner led to the passing of impugned **order No. DCA/Lit/017/453-57** dated **25.09.2017** by the Deputy Commissioner, Anantnag, who is the respondent No. 3 herein purportedly acting on the basis of authorization extended to him by the Revenue Department, State of Jammu and Kashmir in terms of communication **No. DCA/Lit/016/1221-24** dated **19.12.2016**.

03. In terms of the impugned Order No. DCA/Lit/017/453-57 dated **25.09.2017**, the Deputy Commissioner, Anantnag came to an end decision with respect to the purported claims of the petitioners for their rehabilitation/resettlement on account of being displaced from their respective places of livelihood.

04. It was held that the Detailed Project Report (DPR) for the upgradation/widening of the Sinthan Kishtawar road was prepared without any scope for any such rehabilitation/ resettlement package as at the relevant point of time as there was no such rehabilitation and resettlement policy in place, either expressly or impliedly.

05. Thus, the compensation came to be paid to the land owners whose land were coming in the alignment of the road under upgradation/widening project as well as to the shopkeepers who were losing their shop structures in the process and that included the petitioners as well, who were paid respective amount of compensation for the

loss of their shop structures coming under the proposed upgradation/widening road exercise.

06. Respondent No. 4- the Deputy Commissioner, Anantnag thus came up with the parting observation in his impugned that he is left with no option but to reject the claim of the petitioners.

07. Now before this Court proceeds to examine the legality and validity of the impugned order No. DCA/Lit/017/453-57 dated **25.09.2017** passed by the respondent No. 04- the Deputy Commissioner Anantnag, it is essential to have the perspective which led to the institution of writ petition **OWP No. 975/2014** by 72 petitioners, all of whom figure by the same number and order in the present writ petition as well.

08. The proposal for upgrading/widening of Kishtawar-Sinthan-Anantnag (KSA) road was taken up in the year 2005 for which the intended land acquisition was meant to be resorted to. Accordingly, a notification under Section 4 of the Jammu and Kashmir Land Acquisition Land Svt.,

1990 came to be issued on the basis of which private negotiations with the affected land owners/holders were held on **20.05.2008** in which 72 shopkeepers at Achabal, located on the side of the Kishtawar-Sinthan road came to be identified as those who were to lose their shop structures and accordingly, the owners of the shop sites came to be paid compensation by private negotiation mode, while the holders of the shops, majority of them being tenants and majority of them being the petitioners, came to be paid assessed compensation for the structure/mulba.

09. In this regard, the details are to be found in communication No. 13449 dated **23.12.2011** issued by the Superintending Engineer, PWD (R & B) Circle Anantnag/Kulgam HQ-Khanabal on the subject of acquisition of land/structures for construction/upgradation of Anantnag Sinthan Kishtwar Road (NH-1B).

10. All the petitioners are mentioned in this communication as the shopkeepers to whom the

compensation for the loss of shop structures came to be paid.

11. It appears that after having accepted their displacement from the shop sites and also after having accepted the compensation for the shop structures, all the petitioners had found themselves to be deprived of their place of livelihood and that led them to institution of writ petition **OWP No. 975/2014** bearing the hope and expectation that they were entitled to be beneficiaries of the National Rehabilitation and Resettlement Policy 2007, on account of their displacement from their respective shops, and thus, under the effects of the said policy, the benefit of compensation in terms of rehabilitation and resettlement was to take place.

12. It is not forthcoming as to when the actual disbursement of compensation to the petitioners for the loss of their shop structures had taken place, as that fact ought to have been spoken by none else than by the petitioners themselves in

their writ petition, be it OWP No. 975/2014 or the present writ petition, which for reasons best known to the petitioners or to the counsel authoring the writ petition, is left out.

13. When this Court reads out the names of the petitioners by reference to their respective age, a fact comes out that some of the petitioners are in their mid 20s, while some of them are post their 80 years age and in between, a number of petitioners are placed in the age groups of 40 years, 50 years, 60 years, 70 years and 80 years.

14. All the petitioners, individual wise, should have spoken in their writ petition as to when they individually came to setup their respective shop at the place from where they came to be displaced but nothing of that sort came to be done in the writ petition which would have enabled this Court to consider the due gravity, concerns and expectations of the petitioners individual wise as to whether mere compensation for loss of structures was fair, equitable and recompense to them from

the State or whether all the petitioners or some of them were entitled to more than that by parity of similarly situated persons as were in the State of Jammu and Kashmir suffering loss of their place of livelihood in land acquisition related exercises but were suitably compensated and rehabilitated at different places with allotment of new places of livelihood.

15. In this case, the petitioners have self-failed their individual cause.

16. The situation which they reported in the year 2014 in the filing of writ petition OWP No. 975/2014 came to be repeated as it is in the year 2017 when the present writ petition came to be filed on **16.10.2017**.

17. Coming to the impugned order, the authorities concerned, in particular, the Deputy Commissioner, Anantnag cannot be faulted for coming to the conclusion that since the project for upgradation and widening of Sinthan-Kishtwar-Anantnag National Highway did not provide for

funds for the purpose of resettlement and rehabilitation of displaced shopkeepers except for the amount of compensation for the loss of structures which were accordingly assessed as per the market value of the building material so therefore, there was no provision at the disposal of the authorities concerned to consider the rehabilitation and resettlement of the petitioners be it by compensating them in cash or in kind.

18. In the light of the aforesaid, this Court finds no legal basis available in the writ petition to be pressed into service to hold petitioners entitled to the relief as being sought for in the writ petition which is accordingly **dismissed**.

(Rahul Bharti)
Judge

SRINAGAR
02.09.2025
Bisma Jan.