

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

**CCP(S) 446/2022
c/w WP(C) 1785/2022**

M/S Tower Chemicals & Ors.

...Petitioner(s)

Through: None.

Vs.

Fayaz Ahmad Kumar.

...Respondent(s)

Through: Mr. A. R. Malik, Sr. AAG with
Ms. Raheela Khan, Assisting Counsel.

CORAM:

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

ORDER

26.05.2025

CCP(S) 446/2022:

None of for the petitioners.

Mr. A. R. Malik, Sr. AAG with Ms. Raheela Khan, Assisting Counsel for respondents.

01. The record reveals that this Court vide order dated 4th December, 2023 had imposed costs upon the petitioners to the tune of Rs. 1000/-, which till date have not been deposited, neither there is any representation on behalf of the petitioners.

02. Mr. A. R. Malik, learned Senior Additional Advocate General submits that the instant contempt petition has been preferred against the interim order passed by this Court on 18th August, 2022, which order was subject to objections from the other side.

03. The respondents have filed the statement of facts, in which specific stand has been taken by them in Para 3, which for facility of reference is reproduced as under:

“3. That so far as allegation leveled by the petitioners is concerned, in this behalf, it may be submitted that the under-reference Bridge namely; "Chandanwari Bridge", immediately after its completion during the year 2018-2019, the Bridge was barricaded so that only light vehicles can cross it. However, illegally and forcibly, the gypsum truck owners/drivers removed the barricade during night and heavily loaded trucks used to cross the said bridge. The bridge got damaged by these heavily loaded trucks and in this connection, a case FIR was registered by the concerned police (SHO P/S Bijhama) and broken Iron barriers were recovered from the possession of the truck drivers. It is pertinent to submit here that the said bridge stands designated for Class-A loading with maximum rolling load of 55 tons capacity thereby allowing maximum rolling load of 45 tons, which can be allowed to pass on the bridge at a particular instance. It is submitted that in view of the structural design parameters of the bridge, it becomes imperative for the department to ensure structural stability and safety of the said bridge with reference to the maximum designed load allowable and accordingly, the bridge cannot be allowed for a stream of loaded heavy motor vehicles alongside simultaneously on the bridge.

That in order to avoid any mishap and damages to the bridge, it is respectfully submitted either the traffic at the bridge site has to be maintained by the concerned traffic department/authorities allowing only single loaded dumper to pass at a time or the bridge can be used for light motor vehicles only. It is submitted that the residents of the area and local commuters of Chandanwarl

villages, namely; Noorkhan, Salamabad, Dechina, Bugna approached the authorities including the answering respondent with the request for closing the bridge for heavy vehicular traffic, essentially trucks and dumpers carrying gypsum stones as they apprehensions damage to the said bridge due to unprecedented stream of heavy loaded dumpers crossing the bridge on routine basis causing large scale vibrations and possible damages to the bridge.

It will be in place to submit over here that in light of the representation of the locals/residents lodged in the office of Lieutenant Governor, directions were Issued to the answering respondent division for taking action in the matter so as to avoid any loss of life and damage to the property. The answering respondent being a responsible public officer is under obligation to ensure that no loss to life and damage to the property are caused and it is only with this in view that the department is required to be allowed to take steps to protect the bridge.”

04. In view of the stand taken by the respondents in the statement of facts, nothing remains to be adjudicated any further in the instant contempt petition as the order stands complied with. Accordingly, the proceedings in the instant contempt petition are closed. Rule, if any, shall stand **discharged**.

05. The petitioners through the medium of instant writ petition, have sought the following reliefs:

“i. By issuance of an appropriate writ or direction, including one, in the nature of Mandamus, the Respondents be directed to allow the plying of the Petitioners' trucks over the Chandanwari bridge, Uri without any restriction or impediment.

ii. By issuance of an appropriate writ or direction, including one, in the nature of Mandamus, the Respondents be directed to protect the life of the Petitioner by taking appropriate measures.

iii. Any other relief, which this Hon'ble Court deems just and proper, be granted in favour of the petitioners and against the respondents.”

06. The Petitioners are aggrieved of the partial closure of the Chandanwari Bridge, Uri, by the Respondent No. 4 in order to prevent the crossing of trucks owned by the petitioners, carrying gypsum and other minerals from the mines leased out to the petitioners by the Government. It is specific case of the petitioners that they have been allotted mines for extraction of various minerals at village Bagna, Noorkha and Nalusa, Tehsil Uri District Baramulla and ever since the approval of the mining plans, the petitioners have been transporting the minerals from the mines by use of trucks, whose maximum unladen weight is between 7000 to 9000 kgs and laden weight is between 21000 to 31500 kgs.

07. The further case of the petitioners is that the bridge situated at Chandanwari, Uri, had been built by the Respondent No. 1, through J&K Projects Construction Corporation Limited, for movement of light as well as heavy vehicles and the petitioners as well as other persons involved in mining in adjacent areas, had been using the bridge for transportation of minerals from their mines to various destinations *via* trucks.

08. The petitioners have raised a grievance in the instant petition alleging that the respondent No. 3 without any plausible or justifiable reason and without any authority, barricaded the said bridge partially in order to prevent the movement of the trucks over the same, perhaps for the reason that the maximum weight which the bridge could hold was 20,000 kgs and the trucks which were being plied over the same, were carrying more weight than the capacity of the bridge.

09. It is specific case of the petitioners that they have been using the said bridge for years together, with the laden weight of the trucks as 21000 to 31500 kgs and since no interference was caused by the respondents, the stand of respondent No. 3 is contrary to facts and record.

10. It is the further case of the petitioners that feeling aggrieved of the same, an application under Right to Information Act, 2005 was filed by one of the aggrieved

persons on 24th September, 2021 before the J&K Projects Construction Corporation Limited, which was the executing agency of the said bridge, seeking details about the load bearing capacity of the bridge and accordingly, a communication was issued by the Deputy General Manager, J&K PCC Ltd. Baramulla, to M/S Structural Consultants, Polo Plaze, Srinagar, on 6th October, 2021 and in reply to the said communication, the said consultancy firm vide communication dated 8th October, 2021, informed the Deputy General Manager, J&K PCC Ltd. Baramulla, that the bridge had been designed for Class A loading for a live load of 55.40 tons in the form of vehicular loads and a total snow load of 52.59 tons.

11. It is the specific case of the petitioners that from a plain reading of the communication dated 8th October, 2021, it is clear that the maximum live load of the bridge in question is 55.40 tons and before a truck is allowed to ply on the bridge, its weight is checked and gross weight of the trucks ranges between 21000 to 31500 kgs, which corresponds to 23 tons and 34 tons respectively.

12. Feeling aggrieved of the action of the respondents, the petitioners approached the Assistant Commissioner (Central), Kashmir against the closure of the bridge in question by the Respondent No. 3, who in turn directed the Respondent No. 4 to take requisite measures for opening of the bridge for movement of vehicular traffic.

13. It is the specific case of the petitioners that despite clear cut directions from the Assistant Commissioner (Central), Kashmir and Information provided under the Right to Information Act, the Respondent No. 3, for unknown reasons and without justifiable cause, in an arbitrary and Illegal manner, has restricted the movement over the bridge in question.

14. *Per contra*, reply stands filed on behalf of the respondents, in which the respondents have taken a specific stand that the instant petition raises disputed questions of fact, which cannot be gone into while exercising writ jurisdiction. Besides, the petitioners have not approached this Court with clean hands and suppressed material facts and on suppression of material facts, the instant petition is also liable to be dismissed.

15. The respondents have also raised a preliminary objection that in absence of accrual of cause of action to the petitioners, the writ petition is not maintainable and is liable to be dismissed.

16. The respondents have taken a specific stand in the reply affidavit that Chandanwari, Bridge, just after its completion was barricaded, so that only light vehicles can cross the bridge during the year 2018-19. However, the Gypsum truck owners/drivers used to remove the said barricades during night and heavily loaded trucks used to

cross the said bridge, due to which, the bridge got damaged and, in this connection, even an FIR was registered before the Police Station, Bijhama, and broken iron barriers were recovered from the possession of the drivers as well.

17. Further, the stand of respondents is that the bridge stands designed for the Class-A loading with maximum rolling load of 55 tons capacity, thereby allowing maximum rolling load of 45 tons, which can be allowed to pass on the bridge in one go. It is the further stand of the respondents that in view of the structural design parameters of the bridge, it has become imperative for the department to ensure structural stability and safety of the said bridge, with reference to the maximum designed load allowed and accordingly, the bridge cannot be allowed for a stream of heavily loaded vehicles simultaneously. Thus, in order to avoid any mishap and damage to the aforesaid bridge, the traffic at the bridge site has to be regulated by the concerned traffic department, allowing only one single loaded dumper to pass in one go or the bridge can be used for light motor vehicles only. Even the residents of the area have raised the issue with regard to the damage to the said bridge due to unprecedented stream of heavy loaded dumpers crossing the bridge in a routine manner, causing large scale vibrations and possible damage to the bridge.

18. The respondents have specifically denied that they have not restricted the petitioners' trucks, but in order to avoid any loss of life and damage to the bridge, the heavy dumpers/tippers were given the option of crossing other bridge, namely, Gingle bridge, which is situated at a distance of just 1 kilometer from Chandanwari bridge, which has double lane. Thus. the contention raised by the petitioners is unfounded and liable to be rejected.

19. Heard learned counsel for the respondents at length and pursued the record.

20. The respondents are within their rights to regulate the traffic on the aforesaid bridge, so as to ensure that no loss of life is caused and the bridge is not damaged. The bridge has to be used for laden/unladen weight, which has been prescribed by the structural engineers and respondents are within their right to regulate the traffic accordingly. Even otherwise also, since the petitioners have an alternate route/bridge, which is just at the distance of 1 kilometer from the said bridge, thus no grave prejudice is caused to the petitioners and this precisely is the reason that there is no representation on behalf of the petitioners, as the grievance which was projected in the instant writ petition filed in the year 2022, may have been redressed by this point of time.

21. The determination of weight limit for the vehicles (laden/unladen) and the regulation of the traffic on a specific

bridge, are the matters of policy decision, based on the report of the experts and the courts having no expertise, cannot interfere in such policy decisions. It is well settled established preposition of law that the courts can review the policy decisions, if they are arbitrary, irrational and loathed with malafide considerations. The writ petition does not provide any details suggesting that the decision of the Government to regulate traffic and imposition of weight restrictions for the vehicles passing through the bridge in question, is arbitrary, irrational or by way of malice. The decision of the Government to prescribe a particular laden/unladen weight limit for the vehicles, appears to be supported by sound reasoning and expert advice and, therefore, does not warrant any judicial interference.

22. Even, there is no specific denial on part of the petitioners by way of a rejoinder affidavit to the stand taken by the respondents. Thus, in absence of any prejudice being caused/projected to/by the petitioners and also in the light of the stand taken by the respondents, no fruitful purpose would be served to keep this petition alive and accordingly, in the light of the stand taken by the respondents, the instant writ petition has been rendered infructuous as the grievance of the petitioners by efflux of time must have been redressed and this precisely might be the reason that there is no representation on behalf of the petitioners in the instant matter today.

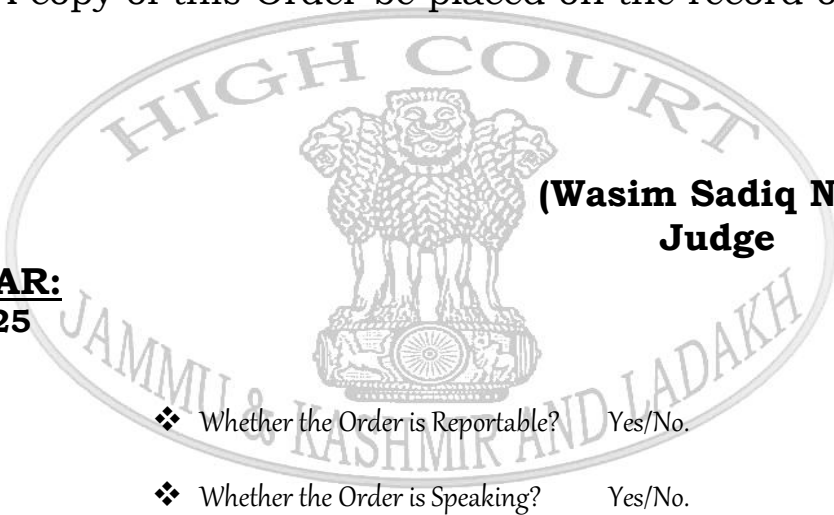
Accordingly, the instant writ petition is **disposed** of in the light of the stand taken by the respondents. Interim directions, if any, shall stand vacated.

23. Needless to say that the respondents are well within their right to regulate the traffic on the bridge in question and to prescribe a specific laden/unladen weight limit for the vehicles crossing the said bridge, based on the report of the structural engineers and not otherwise, so as prevent any loss of life and damage to the bridge, as the bridge serves as a live link for the commuters passing through the said bridge.

24. **Disposed of** along with connected applications.

25. A copy of this Order be placed on the record of each file.

SRINAGAR:
26.05.2025
"HAMID"

The seal of the High Court of Jammu & Kashmir and Ladakh is a circular emblem. It features a central figure of a lion standing on a pedestal, with a wheel (Chakras) below it. The words "HIGH COURT" are written in an arc at the top, and "JAMMU & KASHMIR AND LADAKH" are written in an arc at the bottom. The text "(Wasim Sadiq Nargal) Judge" is written to the right of the seal.

(Wasim Sadiq Nargal)
Judge

❖ Whether the Order is Reportable? Yes/No.

❖ Whether the Order is Speaking? Yes/No.