

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

WP(C) 2441/2022 CM(6182/2022)

M/S SOFI CONSTRUCTION

...Appellant(s)/Petitioner(s)

Through: Mr. Adil Asimi, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS.

...Respondent(s)

Through: Mr. A.R Malik, Sr. AAG with
Mr. Mohd Younis, GA

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE.

ORDER

09.07.2025

1. The petitioner through the medium of the instant petition has sought a writ in the nature of mandamus, thereby directing the respondents to pay amount of Rs. 15,33,000/-, on account of admitted liability along with interest from the date the said amount was due till its final realization.
2. It is a specific case of the petitioner who is a contractor by profession that in pursuance to the work order dated 05.06.2020 issued by the respondents in favour of the petitioner through respondent No. 4 for repairs in Registrar and Sub Registrar Office at Amar Niwas Srinagar, the details of which have been given in Para 2 of the writ petition, has been executed by the petitioner. The further case of the petitioner is that after completion of the work, the petitioner submitted the necessary and requisite documents in strict fulfillment of the contractual obligation to the satisfaction of the respondent authorities, but the petitioner was paid a

part payment and the balance payment of Rs. 15,33,000/- is still payable.

3. Feeling aggrieved of the inaction on part of the respondents, the petitioner was constrained to serve a legal notice to the respondents on 14.08.2022 and reply to the aforesaid legal notice has been given through respondent No. 4 on 19.09.2022, wherein the said respondent No. 4 has admitted the liability of the work done by the petitioner.
4. Mr. Adil Asimi, learned counsel for the petitioner has drawn the attention of this Court to a communication issued by the Executive Engineer (R&B) Construction Division No. 2nd, Srinagar, to the concerned lawyer, whereby the respondent No. 4 has admitted that, as per the record available in the said Division, the contractor (petitioner herein) has executed the work in question, in pursuance to allotment order dated 05.06.2020 and there is a work done cost of Rs. 23.01 Lacs out of which, Rs. 7.99 Lacs have already been paid to the petitioner and the balance amount is yet to be paid, which could not be paid due to non-availability of the funds under the relevant head.
5. Through the medium of the aforesaid communication, it has also been admitted that the balance work done claim for the work executed by the said Division has already been reflected in the liability list and submitted to the higher authorities vide communication dated 17.11.2020 for releasing the same, but due to the non-availability of the

funds, the same could not be released in favour of the petitioner for the said work.

6. The record reveals that a number of opportunities were given to the respondents to file response, but the response was not filed. This Court on 31.08.2024 has granted last and final opportunity of four week to the respondents to file reply, failing which, a direction was issued, that the Executive Engineer, PWD (R&B), Circle, Srinagar shall appear in person through virtual mode on the date fixed.
7. In spite of availing the last and final opportunity, the response was not filed and thereafter, another opportunity on 05.10.2024 was granted, yet the reply was not filed. It is very strange that, in spite of availing various opportunities to file the response, the response was not filed. The respondents prayed for yet another opportunity on 22.11.2024 to file the response and the prayer of the respondent was acceded to and another opportunity of four weeks was granted to file the response, failing which, it was observed that, right to file the same shall stand closed.
8. Today, when the instant petition was taken up, it has come to fore that in spite of availing various opportunities and the last one granted vide order dated 22.11.2024, the response has not been filed. In that view of the matter, the right to file the response shall stand closed.
9. At this stage, Mr. A.R. Malik, Sr. AAG prays for further time of one week to comply the aforesaid order, which prayer is declined.

10. Heard learned counsel for the parties at length and perused the record.
11. Since the respondent No. 4 by virtue of communication dated 19.09.2022, referred to hereinabove has already admitted the claim of the petitioner, thus no fruitful purpose will be served to keep this petition pending and since the payment could not be released due to the non-availability of the funds under the relevant head in the year 2022, the same should not be a stumbling block for the respondents for not releasing the payment in favour of the petitioner for the work, which he has already done in pursuance to the valid allotment order and has submitted the requisite bills and completed all codal formalities.
12. Thus, there is no justifiable reason not to release the payment in favour of the petitioner for the work done claim and a duty is cast upon the respondents to release the admitted amount in favour of the petitioner.
13. Accordingly, in the aforesaid backdrop and keeping in view the admitted stand of the respondents, the instant petition is allowed. The respondents 2 to 4 are directed to release the admitted amount to the tune of Rs. 15,33,000/- in favour of the petitioner within six weeks from today, subject to completion of all the codal formalities.
14. It is made clear that in case, the amount is not released within the aforesaid period, the petitioner will be entitled to interest at the rate of 6% from the date, the amount was payable and denied by the respondents.

15. The writ petition stands **disposed of** in the manner as indicated above.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
09.07.2025
“Adil Ismail”

