

S.No.25
Regular List

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

CCP(S) 470/2023 in[WP(C) 2744/2023]

MAHMOODA(SENIOR CITIZEN) ...Petitioner(s)/Appellant(s)

Through: Mr. M.Y. Bhat, Advocate with
Mr. Sajid Ahmad Bhat, Advocate

Vs.

ATHAR AAMIR KHAN AND ORS. ...Respondent(s)

Through: Mr. Bikramdeep Singh, Dy. AG with
Ms. Nowbahar, Advocate

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL,JUDGE

ORDER

13-05-2025

1. The petitioner herein through the medium of a writ petition bearing WP(C) No. 2744/2023 had called in question before this Court an order dated 17th October, 2023 passed by the Commissioner, Srinagar Municipal Corporation, which reads as under:

- i. “ Immediately close the un-authorizedly made opening towards the private property of Shri Dr. Syed Ghulam Jeelani Qadri.
- ii. Refrain from creating any nuisance by way of creating noise, trespass or authorized entry and occupation into the adjacent private properties including that of Shri Dr. Syed Ghulam Jeelani Qadri and other neighbours.
- iii. Refrain from creating nuisance and public annoyance by parking vehicles on the main road by the customers and employees coming to your premises.
- iv. You are further directed to ensure that you, your family members and individuals employed by you or working in your premises shall refrain from

indulging into any kind of nuisance by way of harassment or bullying of the residents in the adjacent premises.

v. Further separate proceedings have been initiated regarding operating of the commercial establishment without the appropriate permission and license of SMC. A separate notice with respect to that also stands issued to you.”

2. The Writ Court, vide order dated 20th October, 2023, disposed of the writ petition WP(C) No. 2744/2023 with a direction that in case, any action was intended to be initiated, the Commissioner, SMC, or the competent authority shall take such action after adopting due process of law and affording an opportunity of hearing to the petitioner. The Court further recorded the assurance of the petitioner, that he will not create any nuisance, either by noise or otherwise, and will not trespass on the property of any individual, and would also refrain from creating nuisance or public annoyance by parking vehicles on the main road by the customers and employees visiting his premises.
3. The present contempt petition has been filed by the petitioner seeking enforcement of the order dated 20th October, 2023, passed in WP(C) No. 2744/2023. In essence, the petitioner seeks implementation of the direction that any action intended to be initiated by the competent authority must follow due process of law, and the assurance given by the petitioner in the aforementioned order be duly complied with.
4. It is evident from the record that the respondents were granted several opportunities to file a status report, however, the same was not filed in compliance with the Court's earlier orders. As a result,

this Court, vide order dated 19th March, 2025, directed the personal presence of Respondent No. 2 (Chief Enforcement Officer). On 22nd April, 2025, a final opportunity was granted to the respondents to file a compliance report, strictly in consonance with the order dated 17th October, 2023, and other orders passed by the Court. Consequently, the personal appearance of Respondent No. 2 was dispensed with.

5. When the contempt petition was taken up for hearing, a compliance report was submitted by the respondents. A copy of the report has been placed on record and upon perusal, it reveals that in response to the direction of this Court vide order dated 19th March, 2025, respondent No. 1 issued order No. 459 of 2025, dated 10th May, 2025, rescinding the earlier order dated 17th October, 2023 (SMC/Ps/Com/857) ab-initio. A copy of the order dated 17th October, 2023, has been annexed with the compliance report and has been taken on record.
6. A perusal of the compliance report reveals that the petitioner has been directed, in the same vein as the order dated 17th October, 2023, not to create any nuisance by way of noise or otherwise, to refrain from trespassing unto the property of any individual, and to ensure that vehicles are not parked on the main road by the customers and employees visiting his premises. In case of non-compliance, the respondents have indicated that the due process of law shall follow under the Municipal Corporation Act, 2000, and the Unified Building Bye-Laws-2021, in line with the order dated 20th October, 2023, in WP(C) No. 2744/2023.

7. In view of the fact that the order passed by the Commissioner, SMC, on 17th October, 2023, has been rescinded ab-initio, and also considering the fact that the respondents have taken steps to comply with the Court's directions, no fruitful purpose would be achieved to keep the present contempt petition alive. The order passed by this Court stands complied with in its letter and spirit. Accordingly, the proceedings in this contempt petition are hereby closed, and any rule, if any issued shall stand discharged.
8. Before parting with this order, it is clarified that the order dated 17th October, 2023, which was the subject matter of the writ petition, has now been rescinded ab-initio. As a necessary corollary, the conditions imposed in the aforesaid order have also lost its significance, and the said condition will no longer be made applicable. However, the condition imposed vide order No. 459/2025 dated 10.05.2025 shall be strictly applicable to the petitioner and the violation of the same would entail legal action against the petitioner.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
13-05-2025
Mubashir