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Regular

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP 2084/2017 CM 7939/2023

M/S Valley Hollow Blocks Kralpora

..... Petitioner (s)

Through: Mr. T.A Lone, Adv

V/s

State of JK & Ors (Industries and Commerce)

..... Respondent(s)

Through: Mr. Satinder Singh Kala, AAG
Mr. Furqaan Yaqub, Dy AG.

Coram:

Hon'ble Mr. Justice Rahul Bharti, Judge.

JUDGEMENT

12-03-2025

1. The cause of action which led the petitioner to come up with the present writ petition for seeking reliefs under the following heads;

“ a) A Writ in the nature of Certiorari thereby quashing the impugned order issued by Respondent No. 4 under No. DIC/KUP/DEV/2448-50 dated 23-11-2017, in terms of which Respondent No. 4 has cancelled the MSME formal permanent registration of the petitioner's unit namely M/S VALLEY HOLLOW BLOCKS AND TILES KRALPORA, granted earlier vide No. 01/01/11/0469/PMT

dated 28-02-2017, (as contained in Annexure-H of petition).

b) A writ in the nature of Mandamus commanding upon the respondents to accept the application & request of the petitioner to change the information of the Land used for the Unit under the provisions of the First Schedule of the Micro Small Medium Enterprises Development Act, 2006.

c) A writ in the nature of Mandamus commanding upon the respondents to allow the petitioner to run/function the Unit of the petitioner namely, M/S VALLEY HOLLOW BLOCKS AND TILES KRALPORA, over the land covered under survey No. 1042 at Village Kralpora which land stands converted from agricultural to commercial purposes in terms of Government Order No. REV(S)73 OF 2009 dated 08-07-2009.

d) Any other writ, order or direction that this Hon'ble Court deems fit and proper in the circumstances of the case be issued in favour of the petitioner and against the respondents.”

2. The General Manager, (GM) District Industries Centre, Kupwara, vide his order **No. DIC/KUP/DEV/2448-50** dated **23-11-2017** came to cancel MSME Formal Registration of the petitioner granted vide an order **No. 01/01/11/00469/PMT** dated **28-02-2017**.
3. The issuance of impugned order **No. DIC/KUP/DEV/2448-50** dated **23-11-2017** by the General Manager DIC Kupwara was

purportedly preceded by an exercise at his end of having first put the petitioner on a show cause notice by a newspaper notice publication which obtains as annexure E to the writ petition. The contents of said show cause notice are reproduced herein under:-

**“Government of Jammu and Kashmir
Office of the General Manager
District Industries Centre. Kupwara**

kupwaraindustries:gmail.com Tele/fax 01955252323

Saima Nabi

W/o. Ishfaq Majeed Dar

Prop. of M/S Valley Hallow Blocks Kralpora

Subject, Final Notice for Cancellation of MSME
Registration.

Whereas, M/S Valley Hallow Blocks Kralpora was established at Kralpora and applied for formally registration in this office and

Whereas unit was formally registered with the department as MSME with registration number 01/01/11/04G9/PMT/ dated 28/02/2017 on the basis of documents produced by the unit holder and

Whereas, on the basis of compliant filed by one of the resident, notice was issued to the proprietor to get certificate from Tehsildar Kralpora that the unit is located in Survey No. 2633/1893 as mentioned in lease deed and

Whereas Tehsildar kralpora vide his letter no, TK/OQ/17/500 dated 26/10/2017 has intimated that the unit is physically located in Khasra no, 1042

Whereas Proprietor of the unit in response to notice approached this office, to change the location of unit to survey no, 1042 which is Abi Awal and is property of Abdul Majeed Dar of which 3 Kanals and 2 Marias have been leased out to Jaffar Hussain Khan for establishment of Petrol Pump and

Whereas it is evident from the above that the unit-holder has not established unit on the land for which he has produced lease deed for registration.

Now therefore final notice is issued to proprietor and all stake holders to produce material evidence (if any) in their favor within 7 days, failing which the registration will be cancelled and unit holder will not be entitled for any incentive under State industrial policy.

DIPK NB NO.: 236617

Sd/-
**General Manager
DIC Kupwara**

4. The premise on which the General Manager, DIC Kupwara came to put the petitioner on show cause notice is that the registration of the petitioner's unit vide **No. 01/01/11/00469/PMT** dated **28-02-2017** was on the basis of the documents produced by unit holder relatable to land comprised in khasra No. 2633/1893 of village Kralpora where upon the industrial activities of manufacturing of hallow blocks was to be located but the petitioner, in fact, under the guise of the registration came to locate the industrial activity in khasra No. 1042 and thereafter tried to engage in an exercise to cover up the dislocation of the

industrial activity by seeking a permission to change the location of the unit to survey No. 1042 being on aabi awal land and property of one Ab. Majeed Dar leased out to Jaffar Hassan Khan.

5. The petitioner did not respond the show cause notice. In the entire writ petition, there is no averments that the petitioner at any point of time ever came forward to respond to the allegations and the premise of the show cause notice.

6. On the other hand, the petitioner through promoter Mst. Saima Nabi in para 7 of writ petition has come forward with a response that in reference to the show cause notice she had produced before the respondent No. 4-General Manager DIC Kupwara a copy of Government Order **No. REV(S) 73 OF 2009** dated **08-07-2009** wherein sanction stood accorded for conversion of agricultural land measuring 3.2 kanal comprising khasra No. 1042 and also producing the revenue extracts of jamabandi girdawari and the site plan issued by Patwari Halqa concerned on **12-09-2017** purportedly stating that land comprising under khasra No. 1042 to the extent of 3.2 kanal stands converted where upon a petrol pump is located and 1.7 kanal is being used for a manufacturing unit of the petitioner. Nowhere in entire para 7 of writ petition, the petitioner ever came forward with a categoric

avermment that it responded in writing to the show cause notice so published in the newspaper. The reason for avoiding replying to the show cause notice is obvious because the petitioner was having no title whatsoever vis-à-vis land comprising 3.2 kanal in khasra No. 1042 by any stretch of claim.

7. **Government Order No. REV(S) 73 OF** dated **08-07-2009** was never obtained in favor of petitioner, so the default on the part of the petitioner to respond to the show cause notice was obviously to evade the premise in which the General Manager, District Industries Center, Kupwara had put the petitioner on notice with a caution that the earlier registration availed by the petitioner was actually misappropriated by locating the unit not at the original site but at the changed site right from very inception.

8. A fact gets confirmation from the communication of the Tehsildar Kralpora to General Manager DIC Kupwara who vide his communication **No. TK/OQ/17/500** dated **26-10-2017**, on the subject of application of one Mohd Afzal and Ab Majeed Dar came to report that a hallow brick unit manufacturing is physically installed on survey No. 1042 meaning thereby that the petitioner's proprietor Mst. Saima Nabi on her own had become a judge in her own right to assume that the registration No.

01/01/11/00469/PMT dated **28-02-2017** enabled her to shift the industrial site from approved location to another location without any prior permission from the authority concerned i.e, General Manager DIC Kupwara.

9. Learned counsel for the respondents refers to condition No. 3 incorporated in registration No. **01/01/11/00469** dated **28-02-2017** to justify that the registration envisaged is going to change the industrial site.

10. This Court has no issue with tone and tenor of condition No. 3 provided the petitioner would have first applied to the District Industries Center, Kupwara apprising that its unit which was being supposed to be at the site of khasra no. 2633/1893 was to be shifted to new khasra No. 1042 and not that the unit already being operating in khasra No. 1042. The petitioner tried to put the cart before the horse and that is the reason that the petitioner evaded to respond to show cause notice of the General Manager, District Industries Center, Kupwara, and has even exploited interim indulgence of this court granted in terms of an order dated **19-12-2017** to continue to run the industrial activity at the site which has no legal valid permission from the District Industries Center, DIC, Kupwara or for that matter even from the Pollution

Authorities concerned, from the Revenue Authorities concerned in favor of the petitioner to show that the petitioner is legally related to land site in khasra No. 1042 to set up and run an industrial activity at the site by purported reference to registration No. **01/01/11/00469/PMT** dated **28-02-2017**.

11. The filing of the writ petition by the petitioner from the very inception was with malafide intent and purpose. In fact, the petitioner self reserved an adverse judgment against itself by avoiding to reply to the show cause notice issued by District Industries Center, Kupwara. If the petitioner would have replied to the General Manager, DIC Kupwara in response to his show cause notice then the petitioner would have been well within its right to be heard with the issuance of impugned order passed by General Manager, DIC Kupwara.
12. The writ court is not meant to dislodge and displace a decision of an administrative authority but only to examine the legality of the process in which the decision making has been carried out.
13. In the present case, this court has no reason to find that the decision making at the end of General Manager DIC Kupwara is vitiated with any omission or illegality whatsoever more particularly when the petitioner itself opted not to respond to the

show cause notice issued against it. In the entire writ petition, the petitioner has not spelled out as to in which capacity it is related to the site of khasra No. 1042 whereas on the other hand on the basis of the registration relatable to khasra no. 2633/1893 it is continuing with the industrial activity of manufacturing of hallow blocks at changed site with different khasra numbers.

14. In light of the above aforesaid facts and circumstances, the writ petitioner cannot expect to succeed in the writ petition by having the equity jurisdiction of this court in its favour. However, this court is also equally conscious that the petitioner is having a business unit which even by default has been in run and the registration obtaining in its favor is salvageable provided the petitioner approaches the District Industries Center, Kupwara afresh for housing the industrial activity at new site bearing khasra No. 1048 provided having a title vis-à-vis the approved site in khasra No. 2633/1893. In case, if petitioner comes up with all pre-requisite formalities, then the General Manager Industries Center, Kupwara may examine the claim of the petitioner for granting fresh registration without loss of time and without any prejudice against the petitioner in the context of the antecedents

of the petitioner which resulted in filing of the present writ
petition.

15. Writ petition disposed of.

(Rahul Bharti)
Judge

SRINAGAR
12-03-2025
Sarvar

