

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

WP(C) No. 1817/2023

Shamas Din, Aged 70 years.
S/o Gulla Butt,
R/o Goha Thesis Marmat, District
Doda.

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

Through: Mr. S. M. Wajahat, Advocate.

vs

1. UT of J&K through Additional Deputy
Commissioner with the powers of
Commissioner Agrarian Reforms Doda.

..... Respondent(s)

2. Tehsildar, Tehsil Marmat, District Doda.

3. Mohd. Amin,
S/o Qamar Din

4. Gani
S/o Amam Din

5. Mohd. Shafi

6. Nazir

7. Shoket Ali

Sons of Sikander

R/o Village Parna Bagh Goha, Tehsil and
District Doda.

Through: Ms. Sagira Jaffar, Advocate vice
Ms. Monika Kohli, Sr. AAG for R- 1 and 2.
Mr. Neeraj Magotra, Advocate for R- 3 to 7.

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER(ORAL)

11.08.2026

1. This writ petition has been filed by the petitioner for quashing the order dated 24.02.2022 passed by respondent No. 1 in appeals titled "*Mohd. Amin & Ors. v. Farman Ali & Ors*" whereby the appeal preferred by the private respondents has been allowed and mutation Nos. 653 & 656

attested under Sections 4 & 8 of Agrarian Reforms Act, 1976 have been set aside.

2. The petitioner claims to be in possession of the land comprising Khasra No. 21 min, measuring 15 kanals situated at Village Goha Tehsil Marmat District Doda prior to 1971. It is stated that initially one Zafarullah had filed an appeal against the mutation Nos. 333 under Section 4 and 461 under Section 8 of the Agrarian Reforms Act attested on 16.07.1980 and 30.04.1987 respectively, regarding the land measuring 36 kanals 12 marlas comprising khasra No. 21 of village Goha Tehsil Doda. In the appeal, the private respondent Nos. 5 to 7 were arrayed as respondents and the appellate authority vide order dated 11.01.2001 set aside the mutations and remitted the matter to respondent No. 2 for fresh enquiry. Respondent No. 2 as per the directions (supra), visited on spot, summoned the interested parties and after recording the statement of the parties as well as witnesses present on spot and taking into consideration the possession of the petitioner over the land in question, attested the mutations under Sections 4 and 8 of the Agrarian Reforms Act vide mutation No. 653 and 656 of Village Goha regarding land measuring 15 kanals in favour of the petitioner on 01.01.2011. Thereafter, the private respondents after a lapse of 11 years from the date of passing of the order, challenged the mutations attested in favour of the petitioner. The appellate authority in terms of the order impugned in this petition, quashed the mutation No. 653 attested under Section 4 and mutation No. 656 attested under Section 8 of the Agrarian Reforms Act.

3. The official respondents have filed their response, stating therein that as per the record the land under Khasra No. 21 measuring 15 kanals, situated at Village Goha was not under cultivation and physical possession of the petitioner prior to 1971 and he has not constructed cow shed on the above said land prior to 1971.
4. Respondent Nos. 3 to 7 have also filed the response, stating therein the factual aspects of the case, including the one that the land measuring 36 kanals 12 marlas comprising Khasra No. 21 was recorded in the name of the father of respondent No. 4 to 7 from the year 1971 till 1978, but in the year 1985, the entry to the extent of 10 kanals was changed in the name of Farman Ali and Zaffer Ullah illegally. Likewise, entry in respect of land measuring 15 kanals was changed in the name of one Rehmant Ullah S/o Feroz Din. Further, entry in respect of land measuring 10 kanals was changed in the name of Pritam Singh. In ownership column, the name of the father of respondent Nos. 4 to 7 continued to be reflected, however, due to illegal entries made, the mutation was attested under Sections 4 and 8 of Agrarian Reforms Act. It is further stated that no entry existed in the name of the petitioner in the Khasra Girdawari of Kharif 1971 and further that there was no relationship of landlord and tenant between the petitioner and predecessor-in-interest of the private respondents.
5. Learned counsel for the petitioner has submitted that no reason was demonstrated by the private respondents for condoning the delay but despite that the appellate authority in terms of order impugned in this writ petition not only condoned the delay but also set aside the mutations.

6. Learned counsel for respondent Nos. 3 to 7 has submitted that as the name of the petitioner never figured in Kharif 1971, as such, the mutations under Sections 4 and 8 could not have been attested in favour of the petitioner and he has further argued that once the mutations were void ab-initio, the appellate authority was right in not only condoning the delay but also in setting aside the impugned mutations.
7. Heard and perused the material available on record.
8. It is the stand of the official respondents that name of the petitioner nowhere figured in the revenue record prior to 1971. In order to attest mutations under Sections 4 and 8 of the Agrarian Reforms Act, a person must fall within the definition of 'tiller' as defined in Section 2(17) of the Agrarian Reforms Act, meaning thereby a person can be termed as tiller only when he is in cultivation possession of land in Kharif 1971. It is the positive stand of the official respondents that the petitioner's name was not figuring in the revenue record prior to 1971. The appellate authority, while passing the impugned order, also observed that there was no entry in the name of the petitioner in respect of the land in question in the Kharif 1971 record. Thus, it is evident that mutations attested in favour of the petitioner bearing No. 653 under Section 4 and 656 under Section 8 on 01.01.2011 were illegal and contrary to the provisions contained in Agrarian Reforms Act. Once the mutations were ex-facie illegal and contrary to the Agrarian Reforms Act, the issue of delay pales into insignificance.
9. Be that as it may, the appellate authority exercised its statutory discretion in condoning the delay while setting aside the mutations, which were ex-

facie illegal. While exercising extraordinary writ jurisdiction under Article 226 of the Constitution of India, this Court does not act as an appellate or revisional court over the orders passed by statutory authorities. The scope of judicial review is confined to examining whether the statutory procedure was strictly adhered to and whether the principles of natural justice were observed. In the present case, the petitioner was afforded an adequate opportunity of being heard by the appellate authority; however, the petitioner failed to substantiate his claim. Otherwise also, the mutations were attested on 01.01.2011 and appeal was filed in the year 2013.

10. In view of the above, the present petition is found to be without merit and the same is, accordingly, **dismissed**. However, it is made clear that respondent No. 2 shall strictly comply with the order passed by the appellate authority regarding the enquiry and shall pass appropriate orders in accordance with the provisions contained in the Agrarian Reforms Act.
11. Record, after perusal, returned to Ms. Sagira Jaffar, learned counsel for the official respondents. The record of appellate authority be returned to Addl. Deputy Commissioner, with powers of Commissioner, Agrarian Reforms, Doda.

(RAJNESH OSWAL)
JUDGE

Jammu
11.08.2026
Neha-1

Whether the order is speaking: Yes
Whether the order is reportable: No