

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

WP(C)214/2026 CM 524/2026

JAWHARA AKTHER & ANR

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

Through: Mr. Bilal Ahmad Malla, Advocate

Vs.

UNION OF INDIA & ORS

...Respondent(s).

Through: Mr. T.M. Shamsi, DSGI with
Ms Yasmeena Jan, Adv. for R-1 & R-2

CORAM: HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

10.02.2026

1. Heard learned counsel for the petitioners.
2. The case of the petitioners as agitated through the medium of the instant petition filed in terms of the provisions of Article 226 of the Constitution of India, in nutshell, is that they have already applied for grant of passports in their favour in the office of the respondent No. 2. That during verification of their character and antecedents, the respondent No. 3 reported their involvement in a criminal case bearing FIR No. 267/2017 of Police Station, Shopian under Sections 147,148, 149, 379, 201, 307, 323, 354, 420, 447, & 506 RPC, the final report/challan that arose out of the said case FIR is presently pending disposal in the court of learned Principal Sessions Judge, Shopian. That they have already obtained a No Objection Certificate (NOC) from the learned trial court regarding the issuance of passports in their favour in connection with the Hajj/Umrah Pilgrimage. That despite the NOC having been already granted by the learned trial court, the respondent No. 2 has slept over the matter and has not issued the requisite passports in their favour. That the inaction on the

part of the respondent No. 2 has violated their fundamental rights guaranteed under Articles 14, 19 & 21 of the Constitution of India.

3. It is submitted by the learned counsel for the petitioners that the petitioners are aged persons and are very eager to perform the Hajj/Umrah Pilgrimage in accordance with their religious faith. That the criminal case pending trial in the court of the learned Principal Sessions Judge, Shopian, is actually the outcome of a property dispute and the complainants already during the investigation of the case had undertook to get their statements recorded to substantiate the real facts that the said FIR was lodged by them being infuriated in the backdrop of a property dispute with them (petitioners). That, however, the complainants, unfortunately, did not keep their promise of telling the truth before the Investigating Officer, which led to the filing of the final report/challan. That the petitioners have already got permission from the learned trial court regarding the performance of the Hajj/Umrah Pilgrimage, and the order of the learned trial court to that effect is placed on record of the petition as Annexure II.

4. The learned counsel further submitted that as per the Government Standing Order, a passport can be issued in favour of a person involved in a criminal case pending in the competent court of law, in case the learned trial court issues the NOC. It is further submitted by the learned counsel that the performance of the Hajj/Umrah Pilgrimage is a fundamental right of the petitioners guaranteed under Articles 14, 19 & 21 of the Constitution of India.

5. The learned counsel in support of his contentions placed reliance on a recent authoritative judgment of the Hon'ble Supreme Court of India

cited as “*Mahesh Kumar Agarwal Vs. Union of India & Another*”, SLP (Civil) No. 17769 of 2025, decided on 19th December, 2025.

6. *Per contra*, it is submitted by the learned DSGI that respondents 1 & 2 will consider the issuance of the passports for the purposes of the Hajj/Umrah Pilgrimage in accordance with the law, in view of the NOC having already been granted by the learned trial court.

7. In the facts and circumstances of the case, this Court is of the opinion that the matter can be disposed of even at this threshold stage by passing of appropriate directions, the action under which is otherwise to be taken by the respondents as per their statutory obligations.

8. In the backdrop, the instant petition is disposed of with the direction to the respondents 1 & 2 to immediately consider the issuance of the passports in favour of the petitioners for the purposes of the Hajj/Umrah Pilgrimage having regard to the NOC already granted by the learned trial court. It is directed that the validity of the passports should at least be for three years so as to enable the petitioners to find a chance to go for the Hajj/Umrah Pilgrimage within that period.

9. The needful is directed to be done within a period of four weeks.

10. Disposed of.

**(MOHD YOUSUF WANI)
JUDGE**

SRINAGAR
10.02.2026
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