

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA No. 63/2024 in
OWP No. 740/2010

Reserved on: 01.09.2025
Pronounced on: 06.06.2026
Uploaded on: 09.06.2026

Whether the operative part or full
judgment is pronounced: **Full**

Ayesha Mehmood, Age 43 years
D/O Abdul Ahad Sofi,
R/O Government Quarters, Bemina,
Srinagar

....Appellant(s)

Through:- Mr. R. A. Jan, Sr. Advocate with
Mr. Shahid Habib, Advocate.

Vs.

1. State (now UT) of J&K,
through Principal Secretary to
Government, Housing and Urban
Development Department, J&K, Srinagar.
2. Srinagar Development Authority,
through its Secretary,
Bemina Bye-Pass, Srinagar.
3. Vice Chairman, Srinagar Development
Authority, Bemina Bye-Pass, Srinagar.
4. Director, Land Management,
Srinagar Development Authority,
Bemina Bye-Pass, Srinagar.

.....Respondent(s)

Through:- Mr. Ilyas Nazir, G.A.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

JUDGMENT

1. This Letters Patent Appeal is directed against the judgment dated 08.11.2023, passed by the learned Single Judge in OWP No. 740/2010, titled '*Ms. Ayesha Mehmood vs. State of J&K & Ors.*', whereby the writ petition filed by the appellant challenging the cancellation of allotment of a residential plot under the category of "*innocent victim of terrorist violence*" has been dismissed.

2. Briefly stated, the facts necessary for consideration are as follows. The late father of the appellant fell victim to terrorist violence in 1991, compelling the appellant and her mother to migrate from their native place in Sohipora-Sulkoot, Kupwara, to Srinagar. The appellant thereafter was appointed as Junior Assistant in the Revenue Department on compassionate grounds in the year 1997.

3. The Srinagar Development Authority invited applications from the permanent residents of Jammu and Kashmir for registration of residential plots to be developed at Bemina. The number of plots available in the proposed colony was under

- (a) Economically weaker sections/Low income groups(EWS/LIG), - (105 plots of 20 x 40 size)
- (b) Middle income group (MIG) and – (76 plots of 40 x 60 size)
- (c) Higher Income Group (HIG) – (52 plots of 40 x 80 size)

4. The 25% of the plots, out of the total number of plots were offered to the public under the reserved categories as indicated below and while remaining 75% were offered to the public in the general category.

(i)	Scheduled caste/tribes	5%
(ii)	Families of Govt. Servant and other Government Servants who died in harness	5%
	(a) Serving defence personnel	2%
	(b) Ex-serviceman	2%
	(c) War widows	1%
(iii)	Families of innocent victims of terrorist violence and law & order situation	4%
(iv)	Severely disabled persons/handicapped person	2%
(v)	Recent Widows (widows within one year prior to the date of application deserving compassionate treatment	2%
(vi)	Outstanding performers in Arts/Culture/Sports, winners of gallantry awards honours of state/central Govt.	2%

5. In response to Advertisement Notice dated 25.09.2006 issued by the Srinagar Development Authority (for short “SDA”), inviting applications from permanent residents of the erstwhile State of Jammu and Kashmir for advance registration of residential plots proposed at Bemina, Srinagar, the appellant applied under the reserved category of “*family of innocent*

victims of terrorist violence and law and order situation,” which accounted for 4% of the reserved quota.

6. The Advertisement notice specifically outlined that allotment of the plots would be made through draw of lots. Out of the total number of plots, 25% were reserved for specified reserved categories, while the remaining 75% were available under the general category. The appellant applied under the reserved category of *‘Families of Innocent Victims of Terrorist Violence and Law & Order Situation’*, whereas her brother, Mr. Javaid-ur-Rehman, independently applied under the general category. Both were declared successful in the draw of lots. The appellant allotted a residential plot of the specified size of 40 x 60 under the MIG category vide allotment order dated 20.06.2007. The appellant’s brother too was allotted a plot in the same Advertisement notice.

7. As per that Clause 14 of the conditions of allotment stipulated that possession of the plot would be handed over only upon full payment as per the schedule but despite the appellant having deposited the premium and fulfilled the terms and conditions of the allotment, the respondent-SDA did not execute a formal agreement in favour of the appellant nor delivered possession to her. The authority instead issued a show-cause notice to the appellant on 15.03.2010, questioning the validity of the allotment.

8. It appears that during the process of allotment, a complaint was received from one Abdul Salam Mir alleging that the appellant and her brother, Mr. Javaid-ur-Rehman, being brother and sister are members of a single family, therefore, are not entitled to allotment of two separate plots. The matter was taken up with the Deputy Commissioner, Kupwara, for verification of particulars in respect of both the allottees, Ayesha and Javaid

ur Rehman, whether they are part of one family or have separate Chulla and also regarding their family strength. The Deputy Commissioner, Kupwara enquired into the matter and vide his report dated 08.02.2010 stated that both of them are part of one family having joint Chullah .

9. The Srinagar Development Authority issued show-cause notice dated 15.03.2010 to the appellant and her brother for cancellation of allotment on the ground that both constitute a single family and have suppressed this fact while seeking allotment of plot and have both submitted requisite applications and an affidavit to the extent that they comprise different family.

10. The appellant submitted detailed reply to the show cause notice on 02.04.2010 and 13.05.2010, disputing the grounds raised in the show-cause notice, asserting her eligibility under Clause 3 of the Government Order No. 199-HD/GR dated 20.09.1991. However, the SDA, finding the response submitted by the appellant unsatisfactory and holding that she had suppressed material facts, vide the impugned order dated 01.06.2010, cancelled the allotment made in her favour.

11. Feeling aggrieved of the cancellation of allotment, the appellant approached the writ court a writ petition, i.e., OWP No. 740/2010, for quashing of order No. SDA/VC/95 dated 01 June, 2010 i.e., cancellation/withdrawal of allotments of residential plot of 40 X 60 in the category of “*innocent victim of terrorist violence*”. Further direction is sought to admit the appellant to the benefit of allotment order No. SDA/DCM/1522-23 dated 20.06.2007 by delivering actual, physical possession of the residential plot of 40 X 60.

12. The respondents-authority resisted the plea of the appellant by submitting that as per Clause-(3) of Govt. Order No. 199-HE/GR of 1991 dated 20.09.1991, only those applicants are entitled to allotment of plot/flats, whose family does not own any house/plot in the city town where allotment is sought. The appellant and his brother comprised a single family unit and this fact was suppressed by them, thus, they could be allotted plots for suppressing these material facts and their allotment was cancelled vide order dated 01.06.2010. The brother of the appellant Javaid Ur Rehman also filed a writ petition i.e., OWP No. 752/2010 against cancellation of allotment. In this petition, the respondents were directed as under:-

“Taking an overall view of the matter buttressed with the submission made by the learned counsel for the applicant, the respondents shall treat the petitioner in the matter of accord sanction and delivery of the possession of the plot of land alleged to be allotted to him vide allotment order dated 20.06.2006 at par with the beneficiaries of order No. SDA/VC/96 dated 02.06.2010, order No. SDA/VC/192 of 2010 dated 24.11.2010 and order No. SDA/VC/38 dated 16.05.2011 in case they are similarly circumstanced with him.”

13. The respondents pursuant to this direction placed the matter before the Auction Committee for taking decision in view of the aforesaid direction and the fact that the allotment of both the applicants belonging to single family has been cancelled. The Auction Committee in its meeting held on 7th March decided to allot one plot in MIG Colony Bemina to the appellants' brother who was successful in the auction process. Pursuant to the decision of the Auction Committee, the SDA vide order No. 224-SDA of 2022 dated 26.03.2022 allotted Plot No. 76 to the appellant's brother-Mr. Javaid Ur Rehman Sofi.

14. The learned Single Judge, after considering the rival contentions, vide its judgment dated 08.11.2023, held that there is no infirmity in the

decision taken by SDA, noting that the policy provided for one plot per family and that both the appellant and her brother were found to be part of a single-family unit as per the enquiry report. The court also noted that a fresh order (No. 224/SDA of 2022 dated 26.03.2022) accorded consideration of the case afresh, and that there was no present challenge to this order by either the appellant or her brother, accordingly, the writ petition was dismissed as devoid of merit. The operative portion of the order reads as under:-

“Thus, in the light of what has been discussed hereinabove, coupled with the settled legal position and also in light of the latest developments which have taken place with particular reference to the issuance of the order No.224/SDA of 2022 dated 26.03.2022, nothing remains to be adjudicated any further in the instant writ petition and the challenge thrown by the petitioner to the order impugned dated 01.06.2010 passed by respondent No.4, whereby, the said respondent has cancelled/withdrawn the allotment of plot of 40'x60' size under the category of “Innocent Victim of Terrorist Violence”, fails and order impugned dated 01.06.2010 is upheld as the same is in tune with the policy guidelines and also in the light of the fact that the said order has culminated into issuance of fresh order of consideration bearing order No.224/SDA of 2022 dated 26.03.2022, whereby, the case of the petitioner and her brother Mr. Javed-ur-Rehman Sofi has been accorded consideration afresh pursuant to the decision of the auction committee meeting held on 7.3.2022 which has been gladly and voluntarily accepted by the petitioner and her brother, as no challenge has been thrown to the said order as on date.

53. As a necessary corollary, the writ petition which is devoid of any merit, deserves dismissal. Accordingly, the instant petition being devoid of any merit, is dismissed alongwith all connected applications.”

15. The contention of the appellant is that the learned Single Judge erred in law by misinterpreting Clause 3 of Government Order No. 199-HD/GR of 1991, dated 20.09.1991, which merely prescribes that only families not already owning a house or plot in the city/town may apply, and this does not interdict independent claims by unmarried siblings. It is further contended that the learned Single Judge treated the report of Deputy Commissioner, Kupwara as conclusive, while it was obtained *ex parte*, without providing due opportunity to the appellant thereby violating principles of natural justice. It is also contended that the learned Single Judge erred in law by failing to

appreciate that the objections filed by the respondent before the writ court admitted material facts and that merits were effectively conceded. It is contended that at the time of application neither the appellant nor her brother owned property in Srinagar, as such, both satisfied the eligibility criteria.

16. It is further submitted that she and her brother are independent adults and do not constitute one family applying under the different categories (reserved and general) which does not violate the policy for allotment of plots. At the time of application, neither of them owned any property in Srinagar, thus, there was no violation of the eligibility criteria which was fulfilled by them. It is contended that the cancellation order was a nullity as it was based on an ex-parte report from Tehsildar Kupwara violating the principles of natural justice.

17. The issues which arise for determination are (a) whether the appellant and her brother constitute a single family unit under Clause 3 of the Govt. order No. 199-HD/GR of 1991 thereby precluding them from obtaining separate residential plots; (b) whether the impugned order of cancellation was passed in violation of principles of natural justice; and (c) whether the subsequent allotment of a plot to the appellant's brother extinguishes the appellant's claim to a separate plot in the reserved category.

18. The guidelines of 1991 provide that the plots/flats for residential commercial purpose will be allotted in accordance with the provisions of Land Grants Act and Regulations in force in the State. Residential plots/Flats will be allotted to only those applicants whose families do not own any house/plot in the city town in which allotment is sought. Furthermore, Clause 7 of the Advertisement Notice dated September 25, 2006 reiterates that only applicants whose families do not possess any land or house/flat in Srinagar

urban area are eligible. The fundamental object of 1991 Policy guideline is to rehabilitate families as single unit and not as individual family members. The appellant and her brother deliberately suppressed material facts by filing separate affidavit claiming to be distinct families and seeking allotment.

19. The application form of both the appellant and her brother for allotment of plots reflects complete residential address at R/o Sohipora-Sulkote, Tehsil Kupwara. The Ration ticket is also same, i.e., in the name of their mother-Sara Begum and family strength was also reflected as five. However, in the affidavit filed by the appellant and her brother, they have concealed the actual strength of the family members. The appellant had stated on affidavit that her family consists of only two members Sara Begum, brother-Tahir Mehmood whereas Javaid Ur Rehman has stated on affidavit that his family consists only a brother Atiq ur Rehman.

20. On the request of the Srinagar Development Authority, the matter was enquired into by the Deputy Commissioner, Kupwara, through the Tehsildar concerned, who submitted his report regarding verification dated 08.02.2010.

The relevant extract of the report reads as under:

“....A detailed report was sought from the Girdawar/Patwari concerned, who visited the spot and reported that Mr. Javaid-ur-Rehman Sofi and Ms. Ayesha Mehmood, son and daughter of late Abdul Ahad Mir, residents of Village Sulkote, were residing jointly in a common chulla along with their mother, namely, Sara Begum. The Chulla Abstract for the year 2009-2010 was also enclosed with the report. It was further reported that Ms. Ayesha was unmarried and was known as Ayesha Mehmood in the village. The family also figured in the Ration List of Village Sulkote at Serial No. 34 and was drawing ration benefits from the said village. The Village Chowkidar of the concerned village also certified that the said family members were residing in the village in a joint chulla.”

21. The appellant and her brother, thus, constitute a single family unit and living jointly as single family, therefore, could have been allotted only

one plot in view of object of the policy guidelines regarding allotment of one plot to one family. The appellant has also failed to discharge the burden of the findings without any concrete documentary evidence before the Competent Authority. The appellant claimed her family consists of her brother & mother and conversely her brother's affidavit claimed his family consists of himself and another brother. These contradictory affidavits substantiate the respondents' claim of misrepresentation. Thus, they should have brought all the facts before the authority and not suppressed it. Thus, they were rightly held to be a single family.

22. This apart, pursuant to the decision of the auction committee on March 07, 2022, Plot No. 76 was allotted to the appellant's brother and this allotment has been accepted by the appellant and her family without any demur. The appellant has relied on hyper-technical and literal interpretation of the word '*applicant*' in Clause 3 of the 1991 Govt. Order the object of the policy is the socio-economic rehabilitation of the displaced and affected household not the unjust enrichment of multiple adult children of single unit to secure multiple plots under a subsidized public housing scheme that would defeat the equitable distribution of State largesse.

23. The next contention of the appellant regarding violation of the principles of natural justice is too without any basis. It is submitted that while the initial verification by the revenue authorities was admittedly a fact finding process. The respondents did not act upon it and issued formal show cause notice to the appellant providing an opportunity of being heard to her. The appellant responded to the notice submitted detailed replies on 02.04.2010 and 13.05.2010. The requirement of *audi alteram partem* does not mandate a full-fledged trial in administrative proceedings

relating to cancellation of allotment, it merely requires that a fair opportunity be afforded to the affected party to respond to the adverse material. The appellant was, thus, provided adequate opportunity to present her case before the impugned order came to be passed.

24. During the pendency of this litigation, the SDA vide Order No. 224/SDA of 2022 allotted a plot to the appellant's brother. This decision of the Auction Committee dated 07.03.2022 has been accepted by the appellant and her family without any demur and, therefore, extinguishes the appellant's claim for a separate plot. The allotment of the plot to the appellant's brother and its acceptance by them satisfies the objective of the policy for providing a residential plot. The appellant cannot continue to litigate regarding allotment of plot to her without challenging the allotment to Javaid Ur Rehman. The administrative action taken by the respondents pursuant to show cause notice is neither arbitrary nor unreasonable and, therefore, protected from judicial interference. The object of the policy rehabilitates such families who do not own any accommodation. Allotment to different members of one family will defeat the very purpose of the policy. There is reasonable classification with the object sought to be achieved and as such, same is not open to judicial review.

25. In **“Ekta Shakti Foundation vs. Government of NCT of Delhi”**, 2006 (10) SCC 337, the Hon’ble Supreme Court in Paragraph No. (11. 5.), laid down for interference in administrative action, which reads as under:-

“11.5. While exercising the power of judicial review of administrative action, the Court is not the Appellate Authority and the Constitution does not permit the Court to direct or advise the

executive in the matter of policy or to sermonize qua any matter which under the Constitution lies within the sphere of the Legislature or the executive, provided these authorities do not transgress their constitutional limits or statutory powers. (See Asif Hameed v. State of J&K 1989 Supp (2) SCC 364, AIR 1989 SC 1899, Shri Sitaram Sugar Co. Ltd. v. Union of India (1990) 3 SCC 223, AIR 1990 SC 1277.)

The scope of judicial enquiry is confined to the question whether the decision taken by the Government is against any statutory provisions or is violative of the fundamental rights of the citizens or is opposed to the provisions of the Constitution. Thus, the position is that even if the decision taken by the Government does not appear to be agreeable to the Court it cannot interfere.

6. The correctness of the reasons which prompted the Government in decision making, taking one course of action instead of another is not a matter of concern in judicial review and the Court is not the appropriate forum for such investigation.

7. The policy decision must be left to the Government as it alone can adopt (sic decide) which policy should be adopted after considering all the points from different angles. In matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental right is not shown Courts will have no occasion to interfere and the Court will not and should not substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the Court cannot interfere even if a second view is possible from that of the Government.”

26. Having considered the aforesaid facts and circumstances of the case and the law laid down by the Hon’ble Apex Court, we are of the considered view that the judgment passed by the learned Single Judge does not suffer from any perversity, illegality, or infirmity warranting interference. Consequently, the present Letters Patent Appeal, being devoid of merit, is **dismissed**.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Jammu:
06.06.2026
Michal Sharma/PS

Whether judgment is speaking
Whether approved for reporting

:
:

Yes
Yes