

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

**CM No. 3323/2026 in
WP(C) No. 213/2026
c/w CCP(S) No. 70/2026**

Residents of Allochi Bagh & Ors.

... Petitioner(s)

Through: -

Mr A. M. Dar, Senior Advocate with
Ms Mahjabeen, Advocate.

V/s

Union Territory of J&K and Ors.

... Respondent(s)

Through: -

Mr Ilyas Nazir Laway, Government Advocate; and
Mr R. A. Jan, Senior Advocate with
Mr Ubaid Mir, Advocate.

CORAM: HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.

(ORDER)

06.06.2026

CM No. 3323/2026:

01. This application has been moved by the Intervener/ Applicant-SIMA AQUATECH (JV), who has been allowed to intervene vide Order dated 5th of June, 2026 passed in CM No. 3322/2026, through duly constituted Attorney, namely, Ishfaq Ahmad Malik, seeking clarification/modification of Order dated 10th of February, 2026 passed by this Court in CM No. 522/2026 arising out of WP (C) No. 213/2026.

02. The Applicant/ Intervener, claiming to be a Joint Venture Concern, SIMA AQUATECH (JV), is stated to have been awarded a Works Contract by the Respondent No.3 for Survey, Design and Execution of Sewage Treatment Plant for Daily Dry Weather Flow discharging into Doodhganga Nallah on turnkey basis, including Operation & Maintenance

for five years after a free trial run of six months; that, for the timely execution of the Works Contract in accordance with the approved norms and specifications, the Applicant, as required under the terms of award of the works contract has already submitted Bank Guarantee of Performance, issued by the ICICI Bank Ltd. in favour of the Respondent No.3.

03. It has been further averred in the application that, although, taking into consideration the fact that the requisite NOCs/consents have already been granted by the Respondent-Pollution Control Committee, coupled with the true import and purport of Order dated 10th of February, 2026 passed by this Court, it is legally permissible, rather open in law for the Applicant-SIMA AQUATECH (JV), to undertake the execution of public utility facility project, yet, the need to seek clarification/modification of the Order dated 10th of February, 2026 arises, rather same has become imperative for the reason that, in blatant abuse of the aforesaid Order dated 10th of February, 2026, the execution of the work is being stopped/hampered; that, in case the abuse of the Order dated 10th of February, 2026 by the Petitioners/ Non-Applicants is not remedied, the execution of the public utility project, to the manifest prejudice and detriment of the Applicant/ Intervener-SIMA AQUATECH (JV), is sure to get delayed, thereby exposing the Applicant-SIMA AQUATECH (JV) to the risk of colossal financial losses; and that since the project, being executed through the Agency of the Applicant herein, is a public utility project, required to be completed within the stipulated timeframe, therefore, it would be in the public interest to pass appropriate orders prayed for by the Applicant/ Intervener-SIMA AQUATECH (JV), clarifying/modifying the Order dated 10th of February, 2026, so that unhampered execution of the public utility project is undertaken, ensuring timely completion thereof.

04. From the perusal of the pleadings, it appears that the Non-Applicants/ Petitioners have filed Writ Petition bearing WP (C) No. 213/2026, wherein they have sought the following relief(s):

“1. Issue an appropriate writ, order or direction, including a writ of Certiorari, quashing and setting aside all actions, permissions, approvals and consequential steps taken by the Respondents permitting or facilitating the construction of a Sewage Treatment Plant (STP) at/near the residential area of Friends Colony/Allochi Bagh, Srinagar, on the land in question, being arbitrary, violative of Articles 14 and 21 of the Constitution of India, contrary to the declared governmental purpose of the land, and in breach of the statutory siting norms prescribed by the Jammu & Kashmir Pollution Control Committee;

2. Issue an appropriate writ, order or direction, including a writ of Mandamus, commanding the Respondents to forthwith stop and restrain all construction activity, civil works, installation of machinery or ancillary infrastructure relating to the Sewage Treatment Plant (STP) at the impugned site at Allochi Bagh, Srinagar, pending compliance with law and till such time as the siting criteria, statutory safeguards and environmental norms are strictly adhered to;

3. Issue an appropriate writ, order or direction, including a writ of Mandamus, directing the Respondents to strictly enforce and give full effect to the general siting criteria and distance norms prescribed by the Jammu & Kashmir Pollution Control Committee for Red Category activities, including the mandatory requirement of maintaining a minimum distance of 500 meter from residential settlements, and to identify and consider an alternative site for the proposed STP in accordance with law;

4. Issue an appropriate writ, order or direction, directing the Respondents to act in consonance with and not in derogation of the declared governmental policy and decisions relating to the land at Allochi Bagh, Srinagar, including Government Order No. 48-HE of 2019 dated 05.02.2019 sanctioning establishment of a Government Degree College at the said location, and to desist from diverting the said land for any use inconsistent with the aforesaid public purpose, save in accordance with law;

5. Issue an appropriate writ, order or direction, directing the Respondents to ensure that no construction or establishment of the Sewage Treatment Plant (STP) is undertaken or operationalized at the impugned site without obtaining a valid and lawful Consent to Establish (Fresh) from the competent statutory authority, after due application of mind, public consultation where required,

and strict adherence to environmental and planning norms;

6. Pending disposal of the present writ petition, pass an interim order staying all further construction, development or related activity concerning the Sewage Treatment Plant (STP) near Friends Colony/Allochi Bagh, Srinagar, so as to prevent irreversible environmental and public health harm and to preserve the subject matter of the writ petition;

7. Pass such other or further writ, order or direction as this Hon'ble Court may deem fit, proper and just in the facts and circumstances of the case, in the interest of justice, public health, environmental protection and the rule of law; and

8. Award costs of the present writ petition in favour of the Petitioners and against the Respondents.”

05. The aforesaid Writ Petition was taken up for consideration by a Co-Ordinate Bench of this Court on 10th of February, 2026 and this Court, while issuing notice to the Respondents in the Writ Petition as well as application for *ad interim* relief, as an *ad interim* measure, directed that subject to any vacation or modification upon consideration of Objections/arguments of the other side and till the next date of hearing before the Bench, the Non-Applicants/ Respondents are restrained from establishing the proposed Sewage Treatment Plant (STP) at/ near Friends Colony/ Allochi Bagh, Srinagar, except after obtaining and strictly in accordance with the terms and conditions of the requisite NOCs, if any, from all the concerned Departments/ Agencies, especially the Jammu & Kashmir Pollution Control Committee (JKPCC).

06. Since, the Intervener/ Applicant seeks modification of the interim Order dated 10th of February, 2026, whereby the Non-Applicants/ Respondents were restrained from establishing the proposed sewage Treatment Plant (STP) at/ near Firdous Colony/ Allochi Bagh, Srinagar, except after obtaining and strictly in accordance with the terms and conditions of the requisite NOCs, if any, from all the concerned Departments/ Agencies, especially the Jammu & Kashmir Pollution Control

Committee (J&KPCC), therefore, no need was felt to seek Objections to this application and, instead, it was though just and proper to seek clarification from the Chairman, J&K Pollution Control Committee with regard to the issuance of the NOC by the Committee, as in the earlier stand taken by the Committee, the Sewage Treatment Plant (STP) had been categorized as an Industry under the “Red Category”, whereas, in the subsequent NOC, the same has been categorized under “Blue Category”. Accordingly, in terms of Order dated 4th of June, 2026, this Court directed the Chairman, J&K Pollution Control Committee to file an Affidavit along with all supporting documents regarding the categorization of the ‘Sewage Treatment Plant’, particularly in view of the Respondents’ earlier stand classifying it under the “Red Category” and their present stand classifying it under the “Blue Category”.

07. On 5th of June, 2026, the said Affidavit came to be, accordingly, filed on behalf of the Chairperson, J&K Pollution Control Committee, wherein it has been deposed that the Central Pollution Control Board (CPCB), vide Notification No. CP-18/1/2023-IPC-VI-HO-CPCB-HO dated 12th of February, 2025, issued a revised classification of Industrial Sectors and, as per the terms and conditions of the said classification, ‘Sewage Treatment Plants’ (STPs) have been formally categorized under the “Blue Category” of activities; that the re-classification into “Blue Category” explicitly recognizes STPs not as Polluting Industrial Entities, but as an essential environmental service vital for pollution abatement, public health and ecological preservation. It is also stated in the Affidavit that the J&K Pollution Control Committee has adopted and is strictly implementing the said CPCB Notification dated 12th of February, 2025 within the Union Territory of J&K, as such, all statutory consents, monitoring mechanisms and regulatory action concerning STPs are being governed under the provisions applicable to the “Blue Category”.

08. The Non-Applicants/ Petitioners, thereafter, submitted their Response to the aforesaid Affidavit filed by the J&K Pollution Control Committee, wherein it has been stated that there is no murmur/ whisper as to which facts were taken into consideration by the JKPCC, while considering the residential area of the Petitioners or the area where the proposed STP is sought to be raised and further that no such factors have been indicated in the Affidavit as to how the area has been earmarked for the installation of STP which area is in close proximity to the residential locality of Friends Colony, Allochi Bagh. It is also stated that as to how, in the earlier team so constituted by the JKPCC, has it been stated that the proposed site for installation of STP is only 25 meters away from the residential location, is not forthcoming from the Affidavit.

09. Learned Senior Counsel appearing for the Applicant/ Intervener submits that the J&K Pollution Control Committee had given its Consent to Establish (CTE) on 20th of March, 2026 for the construction of Sewage Treatment Plant (STP) in question at Allochi Bagh and, later on, the Committee, vide Order dated 21st of May, 2026, had reviewed and issued revised Consent to Establish (CTE) for setting up of the Sewage Treatment Plant (STP) in question classifying the same under the “Blue Category”, whereafter, the Respondents and the Applicant/ Intervener were authorized to start work of the Sewage Treatment Plant (STP) at the proposed site near Firdous Colony, Allochi Bagh, Srinagar, however, the Non-Applicants/ Petitioners, who are residents of Allochi Bagh, Srinagar, had objected to the construction and have created hurdles under the garb of Order dated 10th of February, 2026 passed by this Court, restraining the Respondents not to start the construction, unless the NOCs to establish are issued by all the Departments, including the J&K Pollution Control Committee.

10. Mr Jan further argued that Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 has been complied with, while issuing

the Consent to Establish (CTE) by the J&K Pollution Control Committee and that the land has also been transferred to the UEED for construction of the Sewage Treatment Plant (STP) at Allochi Bagh, Srinagar; that due to the Objections and resistance put up by the residents, including the Non-Applicants/ Petitioners, the work on the Sewage Treatment Plant (STP) could not be started and the Applicant/ Intervener, for delay in completion of the allotted work, shall have to suffer the consequences on account of this delay, besides, suffering financial loss as well and, hence, this application seeking clarification of the Order, in the face of the Consent to Establish (CTE) Order issued by the J&K Pollution Control Committee, on 21st of May, 2026.

11. Learned Counsel for the Respondents, *ex adverso*, in response to the application for clarification of Order dated 10th of February, 2026, has supported the contention raised by the Applicant/ Intervener, stating that a public project initiated by the Government of J&K is not being allowed to be constructed by the Non-Applicants/ Petitioners on different pretexts, though, all the requisite formalities, including the Consent to Establish (CTE) for setting up the Sewage Treatment Plant (STP) has been issued by all the Government Departments, including the J&K Pollution Control Committee. He further argued that the contention of the Non-Applicants/ Petitioners that the proposed site for setting up of the Sewage Treatment Plant (STP) was already proposed for development of a playground in response to public demand of the residents of Batamaloo to the Deputy Commissioner, regarding which the Chief Planning Officer, Srinagar, had asked the Youth, Services and Sports Department to submit an indent and also the contention that the proposed site was required for setting up of a Degree College are misplaced, inasmuch as, no such order has been passed by the Government for transfer of the land proposed for the Sewage Treatment Plant (STP) to either of the Departments, as contended by the Non-Applicants/ Petitioners. He finally submits that the Order sought to be clarified, though does not require specific clarifications, but, for the

satisfaction of the Non-Applicants/ Petitioners, the same is required to be explained in the face of the fresh Consent to Establish (CTE) Order issued by the J&K Pollution Control Committee, on 21st of May, 2026.

12. The learned Senior Counsel, appearing for the Non-Applicants/ Petitioners, submits that with the setting up of the Sewage Treatment Plant (STP) in question at Friends Colony, Allochi Bagh, Srinagar, two localities of the city, namely, Allochi Bagh and Firdousabad are likely to be worst affected; that already 6 MLD STP is in the locality and that the proposed site had already been proposed for a playground in response to a public demand raised by a delegation from Batamaloo to the Deputy Commissioner, whereupon, the Chief Planning Officer, Srinagar had impressed upon the Youth, Services and Sports Department to submit an indent for acquisition of the land. He also submits that, as pleaded in the main Petition by the Non-Applicants/ Petitioners, some portion of the land was demarcated by the Respondents to be kept reserved for the construction of a building for a Degree College.

13. Mr Dar also argued that the Non-Applicants/ Petitioners, as residents of Allochi Bagh, had filed Objections to the J&K Pollution Control Committee on 26th of December, 2025 and that, on 29th of December, 2026, the Regional Director, Pollution Control Committee, Kashmir, vide his communication No. PCC/RDK/PS/2026/35-38 dated 29th of January, 2026, addressed to the Superintending Engineer, UEED, Srinagar, had stated that on the basis of a complaint by the inhabitants of Friends Colony, Allochi Bagh, Srinagar to the construction of proposed Sewage Treatment Plant (STP), had remarked that on spot inspection of the proposed site, it was found that the proposed site is just 25 Mtrs far from the residential area against the required 500 Mtrs as per the siting criteria of J&K PCC, for such activities (Red Category) and that it was requested to change the proposed site at least 500 Mtrs far from the residential area taking into consideration the grievance/ demand of the inhabitants of the

area and that fresh Consent to Establish (CTE) from the J&K PCC be got before construction of the proposed STP at Allochi Bagh, Srinagar.

14. He has further argued that the Pollution Control Committee, vide its consent to establish, issued on 21st of May, 2026, has changed not only the nomenclature of the Plant from the comprehensive Sewage Treatment Plant to Sewage Treatment Plant, but has also indicated the proposed Unit instead of “Red Category” to “Blue Category”, with capacity of 5 MLD and above. He has vehemently argued that the proposed site was just 25 Mtrs away from the fence of the residential area of the Non-Applicants/ Petitioners and that the Regional Director of the J&K Pollution Control Committee had already impressed upon the Respondents that the proposed site be shifted at least 500 Mtrs away from the locality and that the Pollution Control Committee, in its fresh Consent to Establish (CTE) dated 21st of May, 2026, has bungled with the facts, so as to facilitate the Respondents to construct the proposed Sewage Treatment Plant (STP) at the same site, detrimental to the interests of the locality, to which the Non-Applicants/ Petitioners are aggrieved.

15. He has also argued that even with the change of the category having regard to the Pollution Index, the area where the Unit is proposed to be set up falls within the “Orange Category” which requires that the same be set up at least 250 Mtrs away from the residential area and submits that the Non-Applicants/ Petitioners shall have no objection in case the proposed site is shifted 250 Mtrs away from the residential area of the Non-Applicants/ Petitioners, in the same area where a big chunk of more than 72 Kanals of State land is available. He further argued that the Affidavit filed pursuant to orders passed by this Court has made reference to Central Pollution Control Board (CPCB) notification, however, the Respondents have failed to produce on record or either make any mention with regard to any notification of making the CPCB Notification, applicable to J&K.

16. In rebuttal, Mr Laway, learned Government Advocate, submits that Section 18 of the Air (Prevention and Control of Pollution) Act, 1981 specifically provides the application of any notification/ guidelines/ regulations issued by the Central Pollution Control Board throughout India and is, thus, applicable to the Union Territory of J&K. He has further argued that a Sewage Treatment Plant (STP) is a Unit which is proposed to be set up for controlling the pollution and does not, in any manner, emit pollution, which should not be a matter of concern to the residents, rather, the residents, including the Non-Applicants/ Petitioners, should be happy that the Sewage Treatment Plant is being set up to treat the polluted water of the locality in the area, so as to save them from the ecological pollution and the Unit which is not pollution emitting shall be of no harm to them, in any manner so as to complain; that the proposed STP is 22 MLD which falls within the "Blue Category" in view of the notification showing the same applicable to 5 MLD and above Units. He further submits that the distance of 25 metres from the locality which is being projected by the Non-Applicants/ Petitioners is not simply applicable, in case of a Blue Category Unit to be set up, for which due Consent to Establish (CTE) stand issued by the J&K Pollution Control Committee vide its No. PCC/digital/26016248478 of 2026 dated 21st of May, 2026. He has, thus, prayed that the application moved by the Applicant/ Intervener be allowed, so that the Sewage Treatment Plant (STP), which is of utmost public importance, comes up and its construction is not delayed on any flimsy objection raised by the Non-Applicants/ Petitioners in their Petition.

17. Heard learned Counsel for the parties, perused the pleadings available on record and considered the matter.

18. As per the Affidavit filed by Shri Vasu Yadav, Chairman, J&K Pollution Control Committee, pursuant to orders of this Court, it has been clearly delineated that the Central Pollution Control Board (CPCB) had issued a revised classification of Industrial Sectors vide notification No.

CP-18/1/2023-IPC-HO-CPCBHO dated 12th of February, 2025 and that in terms of the aforementioned revised classification, Sewage Treatment Plants have been formally categorized under the “Blue Category” of activities and that the “Blue Category” STPs were not Polluting Industrial Entities, but essential environmental service vital for Pollution Abatement, Public Health and Ecological Preservation. The J&K Pollution Control Committee had adopted and has been strictly implementing the aforementioned CPCB Notification dated 12th of February, 2025 within the UT of J&K and all statutory consents, monitoring mechanisms and regulatory actions concerning STPs are being governed under the provisions applicable to the “Blue Category”.

19. On perusal of the Notification dated 12th of February, 2025 issued by the Central Pollution Control Board, it reveals that a new methodology has been adopted in view of the amendment in Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 through the Jan Vishwas (Amendment of Provisions) Act, 2023 and amendment in Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 through the Water (Prevention and Control of Pollution) Amendment Act, 2024, whereby exemptions were granted to certain categories of Industries as notified by the Central Government for obtaining consent under these Acts and that an exemption of Consent to Establish (CTE) and Consent to Operate (CTO) to all industrial plants having Pollution Index score upto 20 was granted, subject to certain conditions, vide Notification No. G.S.R. 702 (E) dated 12th of November, 2024 and the Ministry, vide communication dated 14th of November, 2024, had issued Standard Operation Procedure for implementation of the said Notification dated 12th of November, 2024. The Ministry, vide communication dated 15th of January, 2025, also granted concurrence to the revised classification and, as per its revised methodology, the category of the sectors was decided based on the following ranges of Pollution Index:

- i. Red: $P1 \geq 80$;
- ii. Orange: $55 \leq P1 < 80$;
- iii. Green: $25 \leq P1 < 55$; and
- iv. White: $P1 < 25$.

Based on the revised methodology, CPCB has classified a total of 419 Sectors and sub-sectors as under:

- i. The Red Category: 125;
- ii. The Orange Category: 137;
- iii. The Green Category: 94;
- iv. The White Category: 54; and
- v. The Blue Category: 9.

20. In view of the revised notification and adopting the Sewage Treatment Plant (STP) as an Industrial Sector falling in “Blue Category”, the same does not require any such condition with regard to maintaining any distance from the siting of the residential area, as has been projected in the Writ Petition by the Non-Applicants/ Petitioners. Moreover, the Sewage Treatment Plant (STP), being not a Pollution Emitting Unit, but a Pollution Controlling Unit cannot be of any harm to the health of the residents which is the main concern raised in the main Writ Petition.

21. Having regard to the revised Consent to Establish (CTE) issued by the J&K Pollution Control Committee on 21st of May, 2025, in terms of the Central Pollution Control Board Notification dated 12th of February, 2025, whereby the Sewage Treatment Plant (STP) has been recognized and classified as an Industrial Unit falling under “Blue Category”, in the considered opinion of this Court, there is no legal hurdle for the Respondents to raise the construction of the Sewage Treatment Plant (STP) in question at the proposed site. The Order dated 10th of February, 2026, sought to be clarified through the medium of this application, provided restraint from carrying out the work, unless the NOCs from all the

concerned Departments, including the J&K PCC, are obtained. It is nobody's case that any other NOC has not been issued, except the Consent to Establish (CTE) issued by the J&K PCC which has been disputed, however, the Consent to Establish (CTE) issued by the J&K PCC has not been assailed separately, as such, the same holds the field as on date and the Respondents, in the considered opinion of this Court, are entitled to establish the Sewage Treatment Plant (STP) at the proposed site, there being no legal hindrance to the setting up of the same. Therefore, the Order dated 10th of February, 2026 is, thus, clarified in the above terms.

22. CM No. 3323/2026 is, accordingly, **disposed** of. This Order shall also **dispose** of CM No. 522/2026, filed by the Petitioners seeking permission to file the Writ Petition in representative capacity on behalf of all similarly situated and affected residents of Friends Colony, Gulshan Colony, Al-Huda Colony and Mehraj Pora, Allochi Bagh, Srinagar.

CCP (S) No. 70/2026:

23. In view of modification of Order dated 10th of February, 2026 passed in CM No. 522/2026, which was the subject matter of the instant Contempt Petition, this Contempt Petition has been rendered *infructuous* and the same is **disposed** of, as such.

WP (C) No. 213/2026:

24. Parties are directed to complete the pleadings, well in advance of the next date of hearing.

25. List on 29th of June, 2026.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR
June 6th, 2026
"TAHIR"