

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

**CM No. 2126/2026
WP (C) No. 825/2026
CM No. 2125/2026
Caveat No. 682/2026**

Inhabitants of Village Nadihal,
Tehsil Baramulla, District Baramulla
Through: Sh. Ashiq Hussain Mir, Age: 45 Years
S/O Abdul Rahim Mir
R/O Nadihal, Baramulla, Kashmir.

... Petitioner(s)

Through: -
Mr Syed Mohtasim, Advocate.
V/s

1. Union Territory of Jammu & Kashmir

Through Commissioner/ Secretary,
Rural Development Department,
Civil Secretariat, Srinagar/ Jammu.

2. Director, Rural Development Department,
Kashmir, Srinagar.

3. Executive Engineer,
Rural Engineering Wing (REW),
Baramulla.

4. Assistant Executive Engineer,
REW, Nadihal, Baramulla.

5. Executive Engineer,
Irrigation & Flood Control
Division, Baramulla, District Baramulla.

... Respondent(s)

Through: -
Mr N. A. Tabasum, Advocate for the Caveator.

CORAM:

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

(ORDER)

24.04.2026

Caveat No. 682/2026:

01. With the appearance of Mr N. A. Tabasum, the learned Counsel for the Caveator, who, though, is not a party in the Writ Petition, the Caveat No. 682/2026 shall stand **discharged**, accordingly.

CM No. 2126/2026:

02. This application has been moved by the Applicant/ Petitioner, namely, Ashiq Hussain Mir S/O Abdul Rahim Mir R/O Nadihal, Baramulla, seeking permission of this Court to file the accompanying Writ Petition, being WP (C) No. 825/2026, in a representative capacity on behalf of the inhabitants of Village Nadihal. It is stated that the issue involved in the Writ Petition relates to the proposed shifting and construction of the Block Development Council Office of Block Nadihal from village Nadihal at an unsafe location in close proximity to a flood channel/ *Nallah*, which affects the entire population of Village Nadihal and its adjoining areas.

03. For the reasons stated in the application and those urged at the Bar, the present application is **allowed** and the Applicant/ Petitioner is permitted to file the Writ Petition-WP (C) No. 825/2026 in a representative capacity.

04. CM No. 2126/2026 is, thus, **disposed** of on the above terms.

WP (C) No. 825/2026; & CM No. 2125/2026:

05. Through the medium of the instant Writ Petition, filed under Article 226 of the Constitution of India, the Petitioner seeks quashing of Administrative Approval Order No. 631-DRDK (P&S) of 2025 dated 21st of August, 2025 as also Technical Sanction Order No. 9547-49 dated 11th of February, 2026 relating to the construction of the Block Development Council office at Village Ladoora. Simultaneously, the Petitioner also seeks direction upon the Respondents to refrain from proceeding with the construction of the said Block Development Council office at the proposed site at village Ladoora and further directing them to reconsider and identify a suitable and safe site for the said construction in accordance with law, after due consideration of all relevant aspects, including environment, safety and feasibility.

06. The case set up by the Petitioner is that the Block Development Council Office of Block Nadihal has been functioning at

Village Nadihal since the creation of the Block in the year 2014 and has been catering to the needs of the local populace.

07. It is alleged that, all of a sudden, the Respondents have now proposed the construction of a new office building at Village Ladoora falling under Tehsil Watergal, District Baramulla, which site is located merely 5-6 feet away from a flood channel (*Nallah*), making it inherently unsafe, flood-prone and unsuitable for construction of a public building; that sufficient and suitable land is available at Village Nadihal itself, where the office is presently functioning and that there exists no justifiable or rational basis for shifting the office, particularly to a site which is inherently unsafe and unsuitable for construction.

08. It is further stated that, despite the inherent unsuitability and risk associated with the proposed site, the Respondents have proceeded in a mechanical and pre-determined manner to grant successive approvals culminating in the award of contract, inasmuch, as the project has been accorded Administrative Approval vide Order dated 21st of August, 2025, sanctioning an amount of approximately Rs. 1.23 crores under CAPEX Budge, whereafter, Technical Sanction also appears to have been granted vide Order No. 9547-49 dated 11th of February, 2026, purportedly certifying the feasibility of the project; that pursuant to e-NIT No. 334/XEN/REW/Bla/2025-26 dated 14th of February, 2026, the contract seems to have been allotted vide Order No. REW/Bla/26/255787-94 dated 27th of March, 2026 in favour of the Contractor (Caveator herein) at a cost of Rs. 96,97,223.66/- with a stipulated completion period of 180 days; that the aforesaid approval has have been granted without proper consideration of site safety, particularly its proximity to the flood channel/ *Nallah*, thereby vitiating the entire process.

09. It is also pleaded that, upon gaining the knowledge of the proposed shifting and construction of the said Block Development Council office, the villagers of Nadihal submitted number of representations before the concerned authorities, including the Irrigation & Flood Control Department, raising objections to the proposed construction of the said site,

however, the same have not been duly considered or acted upon by the Respondents, constraining the Petitioner to approach this Court through the medium of the instant Petition.

10. Mr Syed Mohtasim, the learned Counsel appearing for the Petitioner, submits that the proposed construction site is located at an extremely unsafe distance of approximately 5-6 feet from a flood channel/stream (*Nallah*), thereby rendering the site highly vulnerable to flooding and structural risk; that the construction activity has already been initiated by the Respondents and, if allowed, the same will lead to irreversible consequences; that the impugned action is contrary to public trust doctrine, which casts a duty upon the State to protect and preserve natural resources, such as water bodies and flood channels for the benefit of the public; and that, by permitting construction in close proximity to a flood channel/*Nallah*, the Respondents have failed to discharge their statutory duty as trustees of such natural resources, thereby acting in derogation of settled principles of law.

11. Mr N. A. Tabassum, the learned Counsel, representing the Caveator; who though is not a party in the Writ Petition, submits that the Caveator has been allotted the contract for and on behalf of the Hon'ble Lieutenant Governor of J&K by the Executive Engineer, Rural Engineering Wing, Baramulla for executing the contract **“Construction of Block Development Council Office Building Nadihal Bridge Crossing at Ladoora”**, under Capex Budget for the year 2025-26 Block Nadihal vide E-NIT No. 234 Xen/REW/Bla/2025-26 Sr. No. 01 on the advertised cost of Rs. 123.06 lacs and allotted cost of Rs. 96,97,223.66, with the period of completion as 180 days, only after the requisite NOC for execution of the aforesaid work was granted by the Irrigation & Flood Control Department, Division Baramulla vide letter dated 3rd of April, 2026. He further submits that the geo-tagging of the earmarked plot has been done by the respective Government Departments and that the Caveator has accordingly started the work at site and has, thus far, completed the earth work. In order to buttress his arguments, the learned Counsel has produced copy of NOC dated 3rd of

April, 2026, as also copies of 'Detailed Project Report' and 'Geotechnical Investigation Report' relating to the project, along with photographs of the proposed construction having already been undertaken by the Caveator at site. The said documents are taken on record.

12. Heard learned Counsel appearing for the parties and perused the pleadings on record.

13. The argument of the learned Counsel for the Petitioner raised in this Petition essentially deals with the subject that no construction can be permitted on the bank of a water channel, which in the present case is a *Nallah* located in village Ladoora, inasmuch as, the learned Counsel submits that the proposed construction in this case has been started just 5-6 feet away from the flood channel/ *Nallah*. This aspect of the matter is to be considered by the Irrigation & Flood Control Department under the provisions of the J&K Water Resources (Regulation and Management) Act, 2010 [for short "the Act of 2010"] and the Rules framed thereunder.

14. In this behalf, it is pertinent to mention here that, although, the learned Counsel for the Caveator has submitted that the NOC has already been issued by the Irrigation & Flood Control, Division Baramulla with regard to the project of construction of Block Development Council Building at Ladoora on the land falling under *Khasra* No. 117 Min at estate Ladoora, but in the said NOC itself, certain conditions have also been prescribed, including that the adequate setback distance, i.e., not less than six meters from the edge of the *Nallah*, shall be maintained as per norms for necessary maintenance and other allied works; that no dumping of construction material, debris or waste shall be carried out in or near the *Nallah*; that necessary preventive measures shall be undertaken to prevent erosion or damage to the banks; and that it shall be ensured that the design and execution shall not compromise the flood carrying capacity of the *Nallah*, besides the strict compliance with the guidelines and directions issued by the National Green Tribunal.

15. Given the above fact situation, the apprehension of the residents of Village Nadihal, as projected in this Petition, that the distance from the *Nallah* has been reduced by the Executing Agency to just 5-6 feet, instead of the requisite distance as permitted under the NOC granted by the Irrigation & Flood Control Department, it will be in the interests of justice that the matter is considered by the Respondent No.2-Director, Rural Development Department, Kashmir by undertaking spot inspection and ensure that the Executing Agency shall, while executing the project in question, adhere to all relevant guidelines/ norms and technical specifications, especially as laid down in terms of the Act of 2010 relating to works near water resources.

16. Viewed thus, this Writ Petition is **disposed** of at this motion stage with a direction to the Respondent No.2-Director, Rural Development Department, Kashmir to visit the spot and ensure that the construction with regard to the Block Development Council Building Nadihal at Ladoora is not raised in contravention to the provisions of the Act of 2010 and the Rules framed thereunder as also the NOC issued by the Irrigation and Flood Control Department, Division Baramulla vide No. IFCD/79-81 dated 3rd of April, 2026.

17. The Respondent No.2-Director, Rural Development Department, Kashmir is directed to visit the site of construction next week, so as to inspect the same and till such inspection, no further construction activity shall be carried out on spot.

18. Writ Petition is, thus, **disposed** of on the above terms, along with the connected CM.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR
April 24th, 2026
"TAHIR"