

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

CRM(M) 156/2023

FAHEEM AJAZ SOFI

...Petitioner(s)/appellant(s)

Through: Mr. I. Sofi, Advocate

Vs.

AJAZ AHMAD SOFI

...Respondent(s)

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER

31.08.2026

1. The petitioner has filed this petition for quashing of the order dated 11.04.2023, to the extent that the maintenance payable to the petitioner has been enhanced from Rs. 6,000 to Rs. 8,000 from the date of the order only.
2. Notice was issued to the respondent but he has not chosen to cause appearance. He is, accordingly, set *ex parte*.
3. The record depicts that the petitioner, along with his brother, had filed an application for enhancement of maintenance against his father. Earlier, by way of compromise, the respondent was directed to pay Rs. 6,000 to the petitioner. Thereafter, in terms of the order dated 01.04.2022 passed by the learned JMIC, Bandipora, the maintenance was enhanced to Rs. 8,000 per month.
4. The said order was assailed by the petitioner through the medium of a revision petition. However, the same was dismissed by the learned Principal Sessions Judge, Bandipora, in terms of order dated 11.04.2023.

5. The petitioner, through the medium of this petition, has impugned the orders dated 11.04.2023 and 01.04.2022, passed by the learned Principal Sessions Judge, Bandipora, and learned JMIC, Bandipora, respectively, only on the ground that the maintenance was required to be enhanced from the date of filing of the application and not from the date of passing of the order.

6. As the respondent has not chosen to object to the petitioner, this Court heard Mr. Sofi and perused the record.

7. It is settled law that the maintenance has to be granted from the date of the application. However, in exceptional circumstances, the same can also be granted from the date of passing of the order.

8. The application for enhancement was filed in July 2020, which came to be disposed of on 01.04.2022 by learned JMIC, Bandipora. The learned JMIC, Bandipora, enhanced the maintenance from Rs. 6,000 to Rs. 8,000 per month after taking into consideration the evidence led by the petitioner. It needs to be noted that the respondent has not led any evidence. No exceptional reasons have been assigned by the learned Magistrate while directing enhancement of maintenance from the date of order only.

9. In “*Rajnish v. Neha*”, (2021) 2 SCC 324, the Hon’ble Supreme Court has held that maintenance should be granted from the date of application, and there is no justification for not applying the aforementioned principle while granting enhanced maintenance.

10. This court has perused the order passed by the revisional Court as well as the order passed by the learned JMIC, Bandipora, and finds that the learned Magistrate and the revisional Court have not rightly dealt with the matter.

11. Accordingly, the present petition is allowed to the extent of modifying the order dated 01.04.2022 by directing the respondent to pay the enhanced maintenance to the petitioner from the date of filing of the application for enhancement, i.e., July, 2020, till the petitioner attains/attained majority.

12. Disposed of.

SRINAGAR
31.08.2026
Junaid

(RAJNESH OSWAL)
JUDGE

