

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(through virtual mode)

Pronounced on : 18.09.2026

WP(C) No. 1803/2022

Fayaz Ahmad Dar

.....Petitioner

Through: Mr. Hamza Prince, Advocate

Vs

UT of J&K and others

..... Respondents

Through: Mr. Waseem Gul, GA

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

01. Heard.

02. Before coming forward with the institution of the present writ petition on **20.08.2022**, the petitioner had first approached this Court twice with writ petitions **OWP Nos. 1302/2011 & 82/2013** which had resulted in its disposal in terms of an order dated **06.02.2013 & 22.01.2013** respectively. In said two writ petitions, the respondents figuring were the same as are figuring in the present writ petition.

03. In terms of an order dated **06.02.2013** in **OWP No. 1302/2011**, the writ respondents No. 5 & 6 i.e. Principal, Govt.

Medical College, Srinagar & the Executive Engineer, Sewerage and Drainage Department, Srinagar respectively were directed to consider the representation to be filed from the end of the petitioner for allotment of an alternate site/shop in accordance with the rules by keeping in view the observations of the Hon'ble Supreme Court of India in the case **SLP(C) No. 2418/2012** titled "**Tukaram Kana Vs MICD and others.**" Till directed consideration and a decision coming forth from the end of said respondents on the representation to be submitted by the petitioner, the status of the petitioner *qua* premises in question obtaining in the form of a shop was meant to be maintained by not disturbing the same.

04. A consideration order **No. 100 of 2013** dated **21.02.2013** read with consideration order **No. 98/2013** dated **20.02.2013** came to be passed with an outcome stating that there was no authority/jurisdiction with the Principal, Govt. Medical College, Srinagar to provide any alternate space to the petitioner particularly when the petitioner was in illegal possession of the shop premises in question.

05. The aforesaid order so passed by the Principal, Govt. Medical College, Srinagar has led the petitioner to come up with 3rd writ petition **OWP No. 157/2013** filed on **25.02.2013** which came to be disposed of in terms of an order dated **15.12.2015** with a direction to the writ respondents therein to consider afresh the petitioner's claim for a decision within the

scheduled time and till said decision taken, the petitioner was not to be disturbed from the premises in reference being his place of business.

06. From the end of the Principal, Govt. Medical College, Srinagar, consideration order **No. 607 of 2016** dated **20.10.2016** came to be passed by reiterating that the office order **No. 100 of 2013** dated **21.02.2013** was passed by holding that the petitioner was not having any merit in his claim and, therefore, even second time consideration of the petitioner's claim was turned down.

07. For the reasons which are not discernible from the record, it has taken the establishment of the Govt. Medical College, Srinagar almost six years to come to a realization that the petitioner is an unauthorized occupant of some space in reference warranting his eviction and, thus, the respondent No. 6, by virtue of a notice **No. Estate/MC/SSH-Eviction/866-71** dated **14.08.2022**, came forward with issuance of a show cause notice under sub-section 1 of section 4 of the J&K Public Premises (Eviction of Unauthorized Occupants) Act, 1988 inviting the petitioner to show cause as to why he be not evicted from a space occupied inside the premises of Govt. Super Specialty Hospital, Shireen Bagh, Srinagar near the Entrance Gate of upcoming new OPD Block.

08. It is by reference to this show cause notice issued purportedly under the J&K Public Premises (Eviction of Unauthorized Occupants) Act, 1988 that the petitioner rushed with present writ petition filed on **20.08.2022** seeking quashment of consideration order **No. 607 of 2016** dated **20.10.2016** and the intended course of action under the J&K Public Premises (Eviction of Unauthorized Occupants) Act, 1988.

09. This Court, in terms of an order dated **23.08.2022**, came up with a direction unto the petitioner to deposit an amount of **Rs. 8.50 lacs** with the Registry of this Court upon which deposit the operation of impugned order **No. 607 of 2016** and also the show cause notice was to come to stay.

10. It appears that the petitioner has not deposited the requisite sum amount going by the Office Notings on the file.

11. The answering respondents in objections to the petition are assailing the very case and claim of the petitioner but without explaining its side non-action from the year **2016** onwards till issuance of show cause notice in the year **2022**, though attributing the delay to a pendency of a civil suit filed against the petitioner by one Mst Haneefa in which the Govt. Medical College, Srinagar did not figure as a party. The petitioner is alleged to be in connivance with said Mst. Haneefa who is said to have filed a writ petition **WP(C) No. 1984/2022**

which too came to be dismissed in terms of judgment dated **15.03.2024.**

12. Given the fact that the writ petition filed by the petitioner is primarily addressed against an intended course of action at the end of the respondent No. 6 under the J&K Public Premises (Eviction of Unauthorized Occupants) Act, 1988, this Court is of considered view that let said legal course of action intended be allowed to take its effect as the petitioner is entitled to show cause and next would have the appellate remedy available in the event of an adverse outcome thereof and against that also the petitioner would have the scope of approaching this Court under judicial review jurisdiction in terms of article 226 of the Constitution of India.

13. Therefore, this Court is inclined to dispose of this writ petition, without adjudication on merits of the claim of the petitioner *qua* the premises in reference and the standpoint of the respondents vis-à-vis said claim of the petitioner, by directing the respondent No. 6 to consider the show cause reply as already submitted by the petitioner and also affording an opportunity of making additional or supplementary reply and leading the evidence in support of his claim, as the case may be, as envisaged under section 5 of the J&K Public Premises (Eviction of Unauthorized Occupants) Act, 1988, and then pass final order bearing reasons, be it adverse to the petitioner or in his favour, as the case may be, on the facts and circumstances

of the case against which the petitioner shall be at liberty to avail the appellate remedy available under section 12 of the J&K Public Premises (Eviction of Unauthorized Occupants) Act, 1988.

14. The needful exercise at the end of the respondent No. 6 to be done by properly notifying the petitioner about date of appearance for hearing of the matter in connection with the enquiry proceedings before him.

15. Till the passing of final order taking place under section 5 of the J&K Public Premises (Eviction of Unauthorized Occupants) Act, 1988 from the end of the respondent No. 6, the petitioner's use and occupation of the premises in reference shall not be disturbed.

16. This Court has not made any observation touching upon the merits/demerits of the case of either side so as to ensure that the legal course of action under the J&K Public Premises (Eviction of Unauthorized Occupants) Act, 1988 remains uninfluenced.

17. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

JAMMU
18.09.2026
Muneesh

Whether the judgment is speaking :	Yes / No
Whether the judgment is reportable :	Yes / No