

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP 557/2004
CM(7517/2025)

MOHAMMAD MAQBOOL BEIGH

...PETITIONER(S)

Through:
Mr. Mian Tufail, Advocate.

V/s.

STATE OF JK AND OTHERS

...RESPONDENT(S)

Through:
Mr. Ilyas Nazir Laway, GA

CORAM:

Hon'ble Mr. Justice Wasim Sadiq Nargal, Judge.

JUDGMENT (ORAL)

01. The petitioner, through the medium of the instant writ petition, has sought the following reliefs:

- a) ***Writ of Mandamus thereby commanding upon the respondents to rehabilitate the petitioner by allotting a shop at Ikhrajpora or Lalla Ded cut.***
- b) ***Writ of Mandamus thereby commanding upon the respondents to pay a compensation of Rs. 20 lacs to the petitioner on account of rendering the shop at Tankipora unmarketable by pulling the structure in the year 1980.***
- c) ***Any other writ, order or direction which the Hon'ble Court may deem appropriate be issued in favour of the petitioner and against the respondents.***

02. The petitioner submits that he used to own a shop i.e. shop No. T2-80 at Tankipora, Zaindar Mohalla Road, Srinagar. In the year 1980, the High Level Committee decided to acquire the land underneath the said shop to pave way for the removal of the bottlenecks of the vehicular traffic, with a view to rehabilitate the persons who were occupying those shops at different sites, including the petitioner.

03. It is submitted that vide order dated 06.05.2003, the respondent No. 3 directed the respondent No. 4 to construct a shop at Habba Kadal on the left side of the approach road for the petitioner. Thereafter, respondent No. 3 urged the respondent No. 4 to immediately rehabilitate the petitioner, which fact can be borne out from the record which has been produced by the petitioner along with the instant writ petition.

04. The further case of the petitioner is that he has not been allotted the alternate shop despite reminders issued by the respondent No. 3, and feeling aggrieved of the same, the instant petition has been filed.

05. It is the specific case of the petitioner that saloon shop No. T2-80 at Tankipora, Zaindar Mohalla, Srinagar had been acquired in the year 1980 by the High Level Committee for the removal of the bottlenecks of the vehicular traffic, and a decision was taken to rehabilitate the petitioner, which till date has not been done, despite the fact that the petitioner had approached this Court way back in October, 2004 and the since then, matter is pending before this Court.

06. It is submitted by the learned counsel that the petitioner is an age-old man and at that relevant point of time, had three unmarried daughters, and the shop in question was the only source of income to feed his family and to earn a livelihood, which shop till date has not been allotted, and, therefore, the action on part of the respondent is arbitrary,

irrational, and liable to be set aside, as per the learned counsel for the petitioner.

07. *Per contra*, the objections stand filed on behalf of the respondents, in which they have taken a specific stand, the relevant portion whereof is reproduced below:

- 1) *The owner of the structure was Pandit Radha Krishen Sadoo.*
- 2) *The shopkeeper/tenant was Mohmad Maqbool Beigh.*
- 3) *The matter was settled as a package deal for a consideration of Rs. 24,000/-, inclusive of the cost of the entire land appurtenant to the structure, excluding an amount of Rs. 4,000/- payable to the petitioner, Mohmad Maqbool Beigh (tenant), towards improvements/additions made to the ground-floor shop.*
- 4) *The dismantled material was to be handed over to the department, and the same was to be auctioned immediately by the Executive Engineer, PWD.*
- 5) *The sale deed was to be executed on 1.1.1981.*
- 6) *Possession was to be handed over on 1st January, 1981.*

08. Thereafter, the respondents have also filed an affidavit in compliance to the order passed by this Court on 23.07.2025, which for facility of reference is reproduced as under:

“1. Order dated 08.07.2025 has not been complied with. However, Mr. A.R. Malik, learned Senior AAG appearing for the respondents, seeks and is granted two weeks' time to file an affidavit in terms of the said order. Prayer is allowed.

2. Let the affidavit indicate whether there is any fresh proposal for allocation of shops with a view to rehabilitate the petitioner, or alternatively, whether

the respondents are inclined to pay compensation in lieu of the demolished shops.

3. Let the affidavit be filed within two weeks positively....”

09. In pursuance to the direction issued by this Court, the respondents with a view to rehabilitate the petitioner, had offered another departmental shop to the petitioner from amongst nine shops, the details whereof are given below, which were vacant at that relevant point of time and were in possession of the respondents;

- i. Tankipora Zaindar Mohalla (single storeyed) near water tank-02 shops.
- ii. Urdu Bazar Fatehkadal-06 shops.
- iii. Sarai Safakadal near J&K Bank – 01 shops.

10. However, it has been submitted by the respondents that all the shops which were offered to the petitioner, were not acceptable to him, because of the location and the approach road.

11. In the peculiar facts and circumstances of the case, the learned counsel for the petitioner submits that he has instructions from his client that the present writ petition may be disposed of with a direction to the respondents that in exchange of the shop, they can offer the petitioner some monetary compensation, for which, the petitioner will file a detailed representation before the respondents, within one week from today and same may be accorded consideration within some reasonable time frame.

12. Mr. Ilyas Nazir Laway, learned Government Advocate appearing on behalf of respondents, is not averse to the said proposal, however, he submits that the representation of the petitioner would be considered strictly in conformity with the law and the rules governing the field, as also in light of the

policy, if any, and compensation can be given to the petitioner in lieu of the shop.

13. In view of the above, no fruitful purpose would be served by keeping this petition alive and with the consent of the learned counsel for the parties, the same is taken up for final disposal at this stage.

14. Accordingly, this writ petition is disposed of by directing the petitioner to file a representation before respondent No. 2-Chief Engineer, R&B, Circular Road Project, Srinagar, within one week from today, and subject to filing of the said representation, the same shall be accorded due consideration strictly under rules and in accordance with law, expeditiously, preferably, within two weeks thereafter.

15. It is made clear that respondent No. 2 while according due consideration to the representation to be filed by the petitioner, shall take a humanitarian view in the light of the fact that the petitioner being an aged person, was dependent solely on the said shop and has a family to feed.

16. Let the said consideration be accorded within the aforesaid period positively by providing an opportunity of being heard to the petitioner, in case respondent No. 2 intends to hear the petitioner in this regard.

17. Writ petition is accordingly **disposed of** along with connected application(s) in the manner indicated above.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:

24.09.2026

"Hamid"