

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

WP(C) 2847/2023

**RESIDENTS OF KAWOOSA KHALISA ...Appellant(s)/Petitioner(s)
THROUGH ABDUL AHAD GANAIE AND ANR**

Through: Mr. Mir Majid Bashir, Advocate

Vs.

**UNION TERRITORY OF J AND K AND
ORS (IRRIGATION AND FLOOD
CONTROL)**

...Respondent(s)

Through: Mr. Jehangir Ahmad Dar, GA

CORAM:

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

ORDER

20.07.2026

1. By this petition, petitioners herein are praying for the relief as follows:

“Issue a writ, order or direction in the nature of mandamus, commanding upon the respondents to discharge their statutory duties and functions and ensure the construction of embankments of water course measuring 4 ft in width with RCC protection in adjacent to the subject matter road covered under survey No. 147 and also issue proper permission/NOCs to the concerned department in response to the communication dated 27.10.2022.”

2. It is stated that the villagers of Kawoosa Khalisa have developed a road decades before and have also secured a sideline water course to their agricultural fields covered under Survey No. 147. The said road is the lifeline to many residents and is the only conveyance to their agricultural fields. The road has been approved to be upgraded by the Block Development Office, Narbal, under the flagship program of MGNREGA in the year 2015 vide work order No. NB/625-27 dated 21.10.2015.
3. In order to upgrade the said road, the Block Development Office, Narbal had undertaken the work in the year 2022 and had sought No objection from the respondent No.4, however, No Objection Certificate has not been issued by the competent authority till date

which has constrained the petitioner to approach this court by way of instant petition.

4. Per contra, in the reply filed by respondents, it is stated;

“5. That in reply to Para No. 5, it is submitted that the BDO Narbal had officially applied to the Department of I&FC for issuance of NOC for the purpose of construction of Road which was objected by the Department of I&FC on the pretext that canal land was being used for the purpose and which is primarily the property land of I&FC Department as per revenue records. The embankment serves as a gangway for the staff as well as the villagers for carrying out agricultural activities during the season. Further, the water course in question is in excavation and there are least chances of leakage as paddy fields are situated on higher contours than the watercourse. The retaining walls are being constructed along the water course to check the leakage, scouring, sloughing etc. which has never been reported in the area till date.”

“7. In reply to the contents of Para 7, it is submitted that the canal embankment is fully protected and no damage has occurred to same till date. The Department of I&FC has never objected to construction of road but by utilizing the land of I&FC department cannot be allowed for the purpose as envisaged under section 82 of Jammu and Kashmir water Resources and Regulations Act, 2010 which provides that no vehicular traffic shall be allowed on embankments except with the permission of the prescribed authority. The petitioners and the construction agency need to procure the land from the villagers as is the practice and precedence followed by R&B and PMGSY departments during construction of new roads.”

5. Learned counsel for the petitioners states that the petitioners herein would feel satisfied if the present petition be treated as representation with a direction to respondents to consider the same within a reasonable period of time.
6. Mr. Jehangir Ahmad Dar, learned GA for the respondents, is not averse to the proposition being made by the learned counsel for the petitioners.
7. Be that as it may, instant petition is disposed of with a direction to respondents to treat the writ petition of the petitioners as representation and consider the same within a period of four weeks

from the date of receipt of this order along with the copy of the writ petition by passing a speaking order thereon strictly in terms of the Act and applicable Rules.

8. Disposed of along with connected CMs.

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR:

20.07.2026

“Misba”

