

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

LPA No.269/2025

CM No.7514/2025

CM No.7515/2025

RAYEES AHMAD NAJAR AND OTHERS

...Appellant(s)

Through: Mr. Rizwan ul Zaman Bhat, Advocate.

Vs.

UNION OF INDIA AND OTHERS

...Respondent(s)

Through: Ms. Rehana Qayoom, Assisting Counsel vice

Mr. T. M. Shamsi, DSGI.

Mr. Ilyas Nazir Laway, GA.

Mr. Faheem Nissar Shah, GA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE

ORDER

13.05.2026

Per, Oswal, J.

1. Appellants had earlier filed OWP No.975/2014, which was disposed of by the learned Writ Court in terms of order dated July 8, 2015 whereby the respondent Nos.1 to 4 therein were directed to take steps for rehabilitation of the petitioners therein in terms of policy, if any, in vogue regarding rehabilitation of the shopkeepers removed in connection with construction/widening of Sinthan-Kishtwar-Anantnag National Highway. Further, respondent Nos. 1 to 4 therein were left free to approach respondent Nos. 5 and 6 therein for release of funds after working out details of Rehabilitation Scheme. Simultaneously,

respondent No.5 and 6 therein were to consider the request for release of funds made by respondent No. 1-4 in accordance with rules.

2. Following the adjudication of **OWP No. 975/2014**, respondent No.4 issued an order on **September 25, 2017**, denying the Petitioners' claims and necessitating a second round of litigation in the form of second writ petition bearing **OWP No. 1677/2017**. In the subsequent writ petition, the appellants assailed the legality of both the 2017 order and communication dated **August 30, 2013** issued by respondent No.6. They also sought a directive for their rehabilitation pursuant to the National Rehabilitation and Resettlement Policy, 2007, claiming equal treatment, that was afforded to the shopkeepers affected by the Jehangir Chowk-Rajbagh Flyover Project.

3. The respondents opposed the claim on the ground that the appellants had received full compensation and that the governing J&K Land Acquisition Act did not contemplate rehabilitation. They asserted that the National Rehabilitation and Resettlement Policy, 2007, was not automatically binding. Although the matter was reviewed following the Writ Court's order dated July 8, 2015, the indenting Department intimated that the finalization of the Detailed Project Report precluded any subsequent relief. This culminated in the rejection order dated September 25, 2017. The respondents further urged that the 2007 Policy was never adopted at the relevant time and possesses no direct legal force within the Union Territory.

4. Learned writ Court in terms of order dated 02.09.2025 dismissed the writ petition.

5. The appellants have impugned the order dated September 2, 2025, on the grounds that their claims fall squarely within the ambit of the National Rehabilitation and Resettlement Policy (2007), as promulgated by the Ministry of Rural Development. They further contend that whereas persons displaced by the Jehangir Chowk-Rajbagh Flyover Project were suitably rehabilitated, the same measure of relief has been withheld from the appellants, thereby denying them parity of treatment.
6. Heard learned counsel for the parties and perused the record.
7. It is borne from the record that the Sinthan-Kishtwara-Anantnag road was taken up for acquisition of land on 18.08.2005, when notification under Section 4 was issued by the Collector Land Acquisition (PWD) Anantnag. Thereafter, Private Negotiations were conducted on 20.05.2008. Pursuant to the acquisition process, seventy-two shops at Achabal were affected by the highway alignment. The Respondents discharged their liability by paying compensation to the owners for the physical structures; furthermore, the shopkeepers and tenants received disbursements on account of fixtures and improvements made in the premises.
8. It was vehemently argued by Mr. Ilyas Nazir Laway, learned GA, representing the respondents, that National Rehabilitation and Resettlement Policy, 2007, was not applicable in the erstwhile State of Jammu and Kashmir and once the appellants have accepted the compensation after private negotiation, they are estopped from lodging any claim of rehabilitation and resettlement.

9. We are persuaded by the argument of the learned G.A. that the Appellants, having voluntarily accepted the compensation awarded, cannot now be heard to claim additional benefits by way of rehabilitation. No such condition was envisioned during the course of private negotiations, and the appellants' current contention is, therefore, untenable. The mandate in the earlier proceedings was conditional, predicated upon the existence of a policy, if in force at the material time, and the appellants have not been able to establish the applicability of the Rehabilitation Policy to the then-State of Jammu and Kashmir.

10. Furthermore, the appellants have failed to establish the specific circumstances under which the persons displaced by the Jehangir Chowk-Rajbagh Flyover Project were compensated; nor have they demonstrated that their own position is legally analogous to that of those individuals so as to warrant identical treatment.

11. Having scrutinized the impugned order, we find no ground to warrant interference with the findings of the learned Writ Court. The writ court has evaluated the matter in its proper perspective and in accordance with the law. Consequently, this appeal is found to be devoid of merit and is, accordingly, **dismissed**.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

SRINAGAR
13.05.2026
Ishaq

<i>Whether the judgement is speaking ?</i>	<i>Yes</i>
<i>Whether the judgement is reportable ?</i>	<i>No</i>