HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

OWP No. 1629/2014 c/w CPOWP No.2/2016

Reserved on: 28.09.2026
Pronounced on: 22.10.2026

Uploaded on: 22.10.2026.
Operative part or full judgment - Full

1. **Bhagat Raj** S/O Mukand Lal
   R/O Ward No.17, Poonch City,
   Poonch.
2. Ghulam Nabi S/O Abal Joo
   R/O Ward No.17, Poonch City,
   Poonch.
3. Nain Singh S/O Sampooran Singh,
   R/O Ward No.17, Poonch City,
   Poonch.
4. Bal Krishan S/O Nanak Chand,
   R/O Khenetar, Poonch.
5. Narinder Kour Wf/O S. Bayant Singh
   R/O Ward No.17, Poonch City,
   Poonch.
6. Lokesh Kumar S/O Des Raj Sharma,
   R/O Village Khanetar,
   Poonch.
7. Usha Sharma Wf/O Lokesh Kumar
   R/O Village Khanetar,
   Poonch.

…Petitioner(s)

Through: Adv. Ravi Abrol.

Vs.

1. **State of Jammu & Kashmir,**
   Through Commissioner/Secretary,
   Public Works (R&B) Department,
   Civil Secretariat, Srinagar.
2. Chief Engineer,
   Public Works (R&B) Department,
   Jammu.
3. Executive Engineer,
   Public Works (R&B) Division.
   Poonch.
4. M/S A.K. Constructions through
   Shri Anil Sharma,
   S/O Late Bindraban Sharma
   R/O 181 A/O Gandhi Nagar,
   Jammu.

…Respondent(s)

Through: AAG Ravinder Gupta.
Adv. Supreet Singh Johal.

CORAM: HON'BLE MR. JUSTICE M. A.CHOWDHARY, JUDGE

JUDGMENT

1. Through the medium of the present petition, filed under Article 226 of the Constitution of India, pending before this Court since the year 2014, the petitioners seek, *inter alia*, a direction restraining the respondents from extending the span of the "Sher-e-Kashmir Bridge" Poonch, besides seeking strengthening of the protection walls/bunds on either side of the Bridge and quashing of the notice inviting tenders issued for the proposed work. The petitioners have also prayed that in the event the extension of the said Bridge is found necessary, their properties situated downstream, be acquired in accordance with law upon payment of adequate compensation.

2. The case as set up by the petitioners, in their writ petition, is that the existing Bridge, constructed during the year 1991-92, is approximately 288.08 metres long and that the respondents had proposed to extend its span by 70.04 metres, by adding two spans of 35.02 metres each; that such extension would affect the existing protection works and expose the adjoining properties, including those belonging to the petitioners, to the risk of flooding and damage.

3. The respondents, on the other hand, have justified the proposed work by contending that the existing bridge was designed in the year 1991-92 keeping in view a flood discharge of approximately 6000 cumecs, whereas subsequent hydraulic assessment, including the experience of recent floods, has shown an increase in the flood discharge to approximately 7450 cumecs; that in view of the increased flood discharge the existing waterway is required to be augmented by extending the span of the bridge so as to avert the possibility of flooding and consequent damage to the adjoining localities. The respondents stated that having regard to the increased flood discharge and the hydraulic requirements, extension of the span of the bridge was imperative**.**

4. During the pendency of the petition, this Court vide order dated **29.05.2015** directed assessment of the issue by a Committee to be constituted by the State Government. Pursuant to the said directions, a Committee was constituted by the Government of J&K, in terms of Govt. Order **No.130-PW(R&B) of 2015** dated **04.06.2015** and the matter was subjected to technical examination.

5. It is the case of the official respondents that the Committee, so constituted, recommended extension of the flood protection bund and payment of compensation

to the legal owners of proprietary/maroosi land, as may be decided by the authorities; that the Committee also recommended the cases of the persons claiming evacuee land as allottees, who are not as per records actual allottees, be decided by the competent authority and the persons in occupation of State land illegally, be considered for 'compensation' or 'otherwise'.

6. Heard learned counsel for the parties, perused the material available on file and considered the same.

7. The writ petition was instituted way back in the year 2014. Nearly twelve years have elapsed since its institution. The Court is, therefore, required to examine the relief claimed not merely with reference to the factual position obtaining at the time of filing of the petition, but also in the light of the subsequent events which have occurred during the pendency of the proceedings. It is well settled that a Court exercising jurisdiction under Article 226 of the Constitution of India can take note of subsequent events, where such events have a material bearing upon the relief claimed and where consideration of the changed circumstances is necessary for doing complete justice between the parties. In the present case, the subsequent technical assessment is not an event extraneous to the controversy. It goes to the very foundation of the petition, namely, whether extension of the bridge is

necessary. The petitioners' challenge, as originally framed, proceeded substantially on the premise that the proposed extension was unnecessary and that it would instead expose their properties to greater danger.

8. The factual position now placed before the Court is considerably different. The respondents state that the flood discharge for which the bridge was originally designed was approximately 6000 cumecs, whereas, subsequent hydraulic data indicated flood discharge of approximately 7450 cumecs. The Committee constituted pursuant to the directions of this Court has also found the extension to be necessary. Thus, the basis upon which the proposed work was originally questioned cannot be considered in isolation from the subsequent technical developments.

9. It is necessary to bear in mind, that the controversy involves questions relating to hydraulic design, flood discharge, adequacy of waterway and protection of adjoining areas. These are matters involving technical expertise. The jurisdiction of this Court under Article 226 of the Indian Constitution is not that of an appellate authority over every administrative or technical decision. The Court examines the decision making process and interferes where the decision is shown to be arbitrary, irrational, *mala fide*, unreasonable or contrary to law. The Supreme Court in

Tata Cellular v. Union of India reported as **(1994) 6 SCC 651**, while explaining the parameters of judicial review, recognised that judicial review is directed primarily towards the decision-making process and not the merits of the decision as if the Courts were sitting in appeal. The principle has repeatedly been applied in cases involving technical and expert decisions. The Supreme Court has observed that courts should ordinarily exercise restraint in interfering with the opinion of expert bodies unless the decision is shown to be manifestly arbitrary, irrational or *mala fide*.

10. The present case stands on an even different footing. The technical conclusion regarding the necessity of extension is not based merely upon the original assertion contained in the reply filed by the respondents. A Committee was constituted pursuant to the directions of this Court itself and the issue was thereafter examined. The Court is conscious that an expert Committee's report is not immune from judicial scrutiny. At the same time, where the issue involves technical assessment, the Court would ordinarily attach due weightage, to such assessment unless there is material demonstrating that the report is arbitrary, perverse, unsupported by relevant material or otherwise vitiated in law. The Supreme Court has recently reiterated that expert committees are constituted

because certain fact-finding exercises involve complex technical questions and that courts should be circumspect in rejecting their conclusions unless there are valid grounds for doing so. No material has been brought before this Court, which would warrant rejection of the technical conclusion reached by the Committee.

11. The petitioners have primarily expressed apprehension that the extension may adversely affect their properties. Such apprehension deserves consideration from the standpoint of protection of their lawful interests, however, it cannot, by itself, furnish a ground for prohibiting a technically examined measure intended to address an increased flood discharge, particularly when the same is stated to be necessary for protection of the adjoining areas, as a whole.

12. The Court is conscious of the fact that infrastructure projects, particularly those relating to rivers, bridges and flood protection, may have an impact upon private properties. The State, while undertaking such works, cannot disregard the rights of individual property holders. At the same time, the State is also under an obligation to take reasonable measures for protection of life and property of the inhabitants of the area.

13. The two interests have, therefore, to be synchronized; firstly, the Court cannot issue a blanket prohibition

against the project merely because the petitioners apprehend that their properties may be affected; secondly, the respondents cannot claim an unfettered right to enter upon, acquire or demolish private property merely because the project has been found technically necessary. Both interests are capable of being protected by requiring the respondents to act strictly in accordance with law.

14. The Court is presently confronted with a technical assessment based upon increased flood discharge and a Committee report obtained pursuant to the Court's own directions. Therefore, even assuming that the petitioners had a legitimate grievance in the year 2014 requiring consideration at that point of time, the relief of prohibiting the proposed extension cannot now be granted without taking into consideration the developments which have occurred during the intervening period. It is important to clarify that this Court is not undertaking an independent hydraulic exercise nor is it expressing any opinion as to the precise engineering design which ought to be adopted for the bridge. The limited conclusion that follows from the material before this Court is that the competent authorities have placed before the Court a subsequent technical assessment which finds the extension of the bridge necessary, and no legally sustainable ground has

been demonstrated to prohibit the authorities from acting upon the said assessment. The decision to execute the project, however, shall remain subject to compliance with all applicable technical, statutory and environmental/safety requirements, wherever applicable.

15. For the aforesaid reasons, the main relief sought by the petitioners for restraining the respondents from extending the span of the 'Sher-e-Kashmir Bridge' at Poonch with the construction of extension work of bridge, cannot be granted at this stage, in view of the completion of the extension work after technical examination, pursuant to the directions of this Court. At the same time, the petitioners, if, have suffered loss of any of their properties during the extension work of the Bridge are also entitled to be compensated in accordance with law.

16. Viewed thus, the writ petition, is partly rejected and partly allowed, with the following directions:

(i) the petitioners shall lay their claim, with regard to the loss of any of their properties, due to the extension work of the Sher-e-Kashmir Bridge, before the Deputy Commissioner, Poonch, within the period of eight weeks from the date of this order; and

(ii) the Deputy Commissioner, Poonch, shall verify, with regard to the damage caused, if any, to any of the

properties of the petitioners due to extension/ construction of the span of the Sher-e-Kashmir Bridge and take steps to pay compensation to the petitioners, expeditiously in case, they are entitled to such compensation.

17. **Disposed of** in terms of the above along-with all pending miscellaneous application(s).

CPOWP No. 2/2016

18**.** In view of judgment passed by this Court in OWP No.1629/2014, the interim order dated 29.05.2015, out of which the instant contempt petition has arisen, has merged into the final judgment. Therefore, nothing further survives for consideration in this contempt petition. The proceedings in this contempt petition are closed and the same is, accordingly, ***disposed of***.

(M. A. CHOWDHARY)
JUDGE

Jammu
22.10.2026
Muzammil. Q

Whether the order is reportable: Yes / No

Raj Kumar
2026.10.22 18:09
I attest to the accuracy and
integrity of this document