Sr. No.56

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINGAR**

CM(7205/2026) IN WP(C) 2428/2024

M/S ABDUL HAMEED GEELANI …Petitioner(s)/appellant(s)

Through: Mr. S. H. Thakur, Advocate

Vs.

U.O.I TH.SECRETARY TO MINISTRY DEFENCE GOVT OF INDIA, AND ORS ...Respondent(s)

Through: Ms. Rehana Qayoom, Advocate vice
Mr. T. M. Shamsi, DSGI
Mr. Imam Muiz, Advocate

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**
**HON'BLE MR. JUSTICE YASH PAUL BOURNEY, JUDGE**

**O R D E R**
**28.10.2026**

1. The petition has been preferred with the following prayers:

> *One in the nature of the certiorari, quashing the operation of the impugned communication dated 02-09-2024 and the communication date 30-08-2024 addressed by the respondent No. 6 to the respondent No. 7 and communication 19-09-2024 passed by the Tehsildar Trehgam Kupwara Kashmir in name of Naib Tehsildar Karwat laderwan Kupwara Kashmir as against of the petitioner as illegal and against the mandate of Article 14, 19 and 21 of the constitution besides being against the facts and circumstances of the case along with the impugned notices issued under Sec 13 2 and sec 13 4 of the Sarfasi Act.*
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> *B. One in the nature of the mandamus, commanding the respondents not to pass any adverse order pertaining against the petitioner on the communications dated 02-09-2024 and the registration of the petitioner be renewed ,extended and all withheld payments of the petitioner be released so that the liability of the bank is purged at the earliest .*
>
> *C. One in the nature of the mandamus, commanding the respondent no.5 to initiate the proceedings under the law against the respondent no.6 and 7 for misusing their official position as bank manager and manager advances against the petitioner while issuing the impugned communications to the petitioner without meeting the commandant and the Tehsildar without meeting the requirements of the law. Further the respondent J&K bank be directed to avail the finances to the*

*petitioner for smooth functioning and for promoting his business.*

*D. One in the nature of the mandamus, commanding the respondent no.6 and 7 to compensate the petitioner to the tune of rupees fifty laces ( 50,00,000) for misusing their official position while issuing the impugned the communications and notices mollified with ill will and malice against the petitioner without following the procedure of the law and without having any authority of the law , same shall be collected from the salary and other benefits of the respondents 6 and 7 with the liberty to file the appropriate legal proceeding for the recovery of damages for injuring the reputation , honor and business of the petitioner .*

2. Learned counsel for the petitioner submits that he had certain payments due from the Union of India, and that is why a communication dated 2nd September 2024, was issued by the Branch Manager, Jammu and Kashmir Bank Limited, Branch Kalaroos, Kupwara, whereby the Deputy Director Contracts, Chief Engineer, Northern Command, was requested to route all the payments due to the petitioner through the account maintained in the Kalaroos branch of the respondent bank.

3. It is further contended that this letter reflects that there was an amount due to the petitioner from the Union of India, and once those amounts would have been received, he would be in a position to make the necessary payments.

4. He further submits that while the petitioner is not averse to the payment for undergoing the SARFAESI law, but his main grievance is that unless his payments are released for the work in question from the Union of India, he would not be in a position to repay the bank.

5. The counsel for the respondent Bank submitted that the petitioner is having an independent relationship with the Bank and thus once he has violated the terms and conditions of the loan, he has to undergo the SARFAESI strictly in accordance with law.

6. The counsel for the bank further submits that the bank is an independent body and is dealing with a public exchequer / public money and thus has to strictly implement the SARFAESI laws for recovery of the loan in question.

7. Counsel for the bank has drawn attention of this court to the fact that on 23-10-2024, an opportunity was given while an interim order was passed for the petitioner to make the complete payment within a period of

three weeks, and he was granted protection of no coercive action in the same terms.

8. Counsel for the bank submits that even after having the order of protection of this court for so long, that is from 23rd October 2024, the petitioner has not paid a single penny, and is a continuous defaulter, and therefore the interim protection be vacated and the petition be dismissed for his non-compliance of the order dated 23rd October 2024.

9. The counsel for the Union of India, Ms. Rehana, submits that as of today, there is no pending payment against the contractor, the petitioner.

10. The present status dated 28th October 2026, acquired by the counsel through the concerned authority, has been passed on to the Court and is taken on record.

11. This Court finds that the protection granted on 23.10.2024 was for a limited purpose so as to enable the petitioner to pay the complete amount within a period of three weeks and also to enable the petitioner to pursue his case for any payments which were due to him as per his own version.

12. This Court finds that the petitioner has grossly violated the order dated 23-10-2024, which was an interim order of protection granted in his favor, by not depositing a single penny since 23.10. 2024. Moreover, the Union has taken a clear stand that there is no amount due to the petitioner.

13. This Court is conscious of the strict parameters of SARFAESI Act, and the precedent law laid down by the Hon'ble Apex Court, and since no legal proposition has been brought forward for any further adjudication in the SARFAESI proceedings, we do not find any further reason to protect the petitioner.

14. The Bank has to immediately proceed so as to recover the public money only strictly in accordance with law.

15. The appeal is accordingly dismissed.

**(YASH PAUL BOURNEY)**
**JUDGE**

**(DR. PUSHPENDRA SINGH BHATI)**
**CHIEF JUSTICE**

**SRINAGAR**
**28.10.2026**
Aadil