12
Regular

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

WP(C) 3063/2024
CM(2439/2026) CM(8337/2024)

ABDUL QAYOOM BANDAY ….. Petitioner (s)

Through: Mr. M A Makhdoomi, Advocate.

V/s

FINANCIAL COMMISSIONER (REVENUE) J AND AND ORS

….. Respondent(s)

Through: Mr. Kaiser Ali, Advocate.

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Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER

25.11.2026

1. The petitioner, through the medium of present petition, is aggrieved of order dated 18.04.2024, passed by respondent No. 1, to the extent, a reference has been made to the Administrative Department with recommendation to set aside the mutation bearing 439 dated 04.10.1985 and 449 dated 14.01.1987 attested under section 4 and 8 of the Agrarian Reforms Act.
2. Heard learned counsel for the parties and perused the record.
3. It appears that the private respondents herein had filed two appeals before respondent No. 1 challenging Mutation No.

439 dated 04.10.1985 and 449 dated 14.01.1987 in respect of the Estate Najan Beerwah District Budgam concerning land measuring 03 Kanals and 5 Marlas under Survey No. 111 Min. Since the appeals were filed belatedly in the year 2013, the Financial Commissioner vide impugned order dated 18.04.2024 came to the conclusion that the delay in filing the appeal has not been properly explained and that huge delay of 26/28 years in filing the appeal cannot be condoned. The appeals were accordingly dismissed by the learned Financial Commissioner.

4. However, while dismissing the appeals on the ground of limitation, the learned Financial Commissioner invoked provisions contained in Rule 52 of the Agrarian Reforms Rules which provides that if the appeal dismissed on the ground of limitation, the appellate authority if he be of the opinion that the order appealed is one which should be revised, submit the case through proper channel to the revisional authority with a report as to why the order appealed needs revision and what the revised order should be. The learned Financial Commissioner after noting that there is no

revisional authority in place still made the reference to the Administrative Department for further necessary action in the matter.

5. It is to be noted that Sub Section (2) of unamended Section 21 of the Agrarian Reforms Act vested power of revision with the Revenue Minister which was being exercised by J&K Special Tribunal. The said provision stands omitted vide S.O. 3808(E) of 2020 dated 26.10.2020 with effect from the said date in terms of Union Territory of Jammu and Kashmir Reorganization (Adaptation of State Laws) Fifth Order, 2020. The position, thus, which emerges is that there is no revisional authority constituted under Section 21 of the J&K Agrarian Reforms Act. Unless power of revision is conferred upon an authority by a Statute, no such power can be exercised. The learned Financial Commissioner, despite, being aware of this position has referred the matter to Administrative Department as if it was an administrative file least knowing that he was exercising the power of a quasi-judicial authority constituted under the provisions of J&K Agrarian Reforms Act not as an administrative officer. Once the power of revision has been

taken away under the amended J&K Agrarian Reforms Act, the case could not have been referred to the Administrative Department. The said part of the direction issued by the learned Financial Commissioner is, therefore, without any sanction of law.

6. For what has been stated hereinabove, the impugned order dated 18.04.2024 to the extent of making recommendation for setting aside of mutation and placing the matter before the Administrative Department for the said purpose is set aside.

HIGH COURT
JAMMU & KASHMIR AND LADAKH

(Sanjay Dhar)
Judge

SRINAGAR
25.11.2026
Aasif

Whether of the order is speaking Yes/No

Whether the order is reportable Yes/No