

S. No.18
Regular list

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 1404/2022

ABDUL RASHID SHAH ... Petitioner(s)

Through: Mr. M.Y. Bhat, Senior Advocate with
Mr. Sajid Ahmad Bhat, Advocate
Vs.

UNION TERRITORY OF J AND K AND ORS. ...Respondent(s)

Through: Mr. Rais Ud Din Ganai, Dy.AG

CORAM:HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
12.02.2024

01. This Court vide order dated 31st January, 2024, granted one week's last and final opportunity to the respondents to comply with the order dated 28th September, 2023 failing which, it was observed that the respondent no. 1, shall appear in person before the Court on the date fixed.

02. In compliance to the aforesaid order, a detailed compliance report has been filed on behalf of the respondents, a perusal whereof, reveals that pursuant to the directions passed by this Court in terms of the order dated 28th September, 2023 followed by the order dated 31st January, 2024, the process has been initiated by the respondents for referring the case of the petitioner to the GAD for placing the same before the Review Committee in terms of the Rule 31 of J& K Civil Services (Classification, Control and Appeal) Rules, 1956 to review the suspension of the petitioner.

03. It has been brought to the notice of the Court by Mr. M.Y. Bhat, learned Senior Counsel appearing on behalf of the petitioner that

this Court vide order dated 24th September, 2021 passed in WP (C) 1917/2021, has already kept in abeyance the earlier suspension order of the petitioner bearing no. DULB/Est/3762/474 of 2021 dated 09.09.2021, issued by Director Urban Local Bodies, Kashmir and the respondents till date have also not filed any objections in the said writ petition, arising out of the same allegations which led to the passing of the subsequent suspension order and is subject matter of instant petition.

04. Learned Senior Counsel for the petitioner further submits that the respondents in most contemptuous manner and in flagrant violation of the order passed by this Court dated 24th September, 2021, has passed the order impugned dated 9th June, 2022 bearing no. DULB/Estt/3763/335, which is impugned in the present writ petition, whereby the petitioner has again been placed under suspension and attached with the Directorate of Urban Local Bodies, Kashmir, with immediate effect. Learned Senior Counsel for the petitioner further submits that since the earlier order of suspension arising out the same allegations was kept in abeyance by this Court, then the respondents by no stretch of imagination could have issued subsequent suspension order on the same grounds, more particularly, when the Court is already seized of the matter and has granted temporary reprieve to the petitioner by keeping the said order in abeyance.

05. Learned Senior Counsel for the petitioner further submits that this was precisely the reason that this Court vide order dated 28th September, 2022 has directed the respondent to review the suspension of the petitioner, in the light of the judgement passed by the Apex

Court in case titled *Ajay Kumar Chowdhary Vs. Union of India through Secretary and Ors.* reported in (2015) 7 SCC 291, which direction according to him has not been complied with in its letter and spirit, as on date.

06. In the light of the aforesaid back drop, Mr. Rais Ud Din Ganai, learned Deputy Advocate General, seeks two weeks further time for filing objections to both the writ petitions.

07. Reluctantly and in the interest of justice, two weeks' time as prayed for is granted for filing objections with an advance copy to the learned counsel for the petitioner which, however, shall be the last and final opportunity, failing which, the matter will be heard on its own merit. In the meantime, the respondents are directed to review the suspension of the petitioner as already directed vide order dated 28.09.2022 in the light of the Supreme Court judgement mentioned *supra* and also in the light of the fact that earlier suspension order was kept in abeyance by this Court in WP (C) 1917/2021.

08 Registry is directed to Club WP (C) 1917/2021 along with the instant petition.

09. List both the petitions for continuation of arguments on 2nd March, 2024.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR
12.02.2024
Mubashir