

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 2368/2023
CM No. 5567/2023

Mushtaq Muhammad ...Appellant/Petitioner(s)

Through: Mr. M. A. Qayoom, Advocate

Vs.

UT of J&K and Ors. ...Respondent(s)

Through:

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER
11.09.2023

Petitioner is aggrieved of the order bearing No.DCB/PS-180 of 2023 dated 10.03.2023, issued by respondent no.6 (Deputy Commissioner, Budgam), whereunder he has constituted a committee of officers, viz., respondents 7 to 9, to enquire into the matter and furnish a detailed report to him within a period of 15 days positively with their specific comments.

The short grievance of the petitioner is that regarding the alleged medical negligence, Director, Health Services, Kashmir, was asked to conduct an enquiry vide letter dated 13.03.2023 and pursuant to the directions, the Director, Health Services, Kashmir, vide letter dated 17.03.2023, constituted a team of officers for conducting enquiry regarding the medical negligence at District Hospital, Budgam, which led to the loss of life of deceased, Saima Ali, on 18.02.2023. It is further averred in the petition that there had been another enquiry conducted by Director, AYUSH, J&K, Srinagar, vide letter dated 04.05.2023. The report of enquiry regarding the medical negligence resulting death of Mst. Saima Ali, has already been

submitted by the Director, Health Services, Kashmir as well as Director, AYUSH, J&K Srinagar.

It is submitted by learned counsel for the petitioner that despite the aforesaid two enquires, one conducted by respondents 2&3, and other by respondents 4&5, the Deputy Commissioner, Budgam, in terms of communication dated 10.03.2023, has constituted a committee comprising of respondents 7 to 9, for conducting an enquiry and furnishing report to him within a period of 15 days. It is further submitted by learned counsel for the petitioner that the Deputy Commissioner, Budgam, is neither the appointing authority nor the disciplinary authority of the petitioner, therefore, he could not have issued an order for conducting the enquiry regarding the alleged medical negligence.

Having regard to case set up and submissions made by learned counsel for petitioner, prima facie a case is made out, at this stage, for *ad interim* relief.

Notice. Notice in CM as well.

In the meantime, subject to objections and till next date of hearing before the Bench, the order bearing No.DCB/PS-180 of 2023 dated 10.03.2023, shall stay.

Put up on 30.10.2023.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR

11.09.2023

Manzoor