



**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- OWP No. 113/2005

M/s Sports Goods Industry

.....Petitioner

Through: Mr. P. N. Goja, Sr. Advocate with
Mr. Abhinav Jamwal, Advocate

Vs

State of J&K and others

.....Respondents

Through: Mr. Ravinder Gupta, AAG

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT
18.04.2026

01. The institution of this writ petition came to take place on **04.03.2005**.

02. Sh. K. L. Ambardar is the sole proprietor of the petitioner concern M/s Sports Goods Industry which was a registered small scale industrial unit engaged in manufacture of wooden and joinery items, carpet looms and sports goods etc., bearing registration **No.07/09/00550/PMT/SSI** dated **11.09.1978** situated at Bagh-i-Ali Mardan Khan Industrial Area, Srinagar wherein the petitioner is said to have been allotted an industrial shed No. 5 with a land underneath for



enabling establishment of the industrial unit for manufacturing of the goods.

03. The petitioner is said to have commissioned the installation of machinery and starting of the manufacturing activity by the end of year 1989 but immediately followed by historic mass migration of Kashmiri Pandits from Kashmir region for sake of safety of lives and limbs in which the proprietor of the petitioner along with his family also migrated to Jammu registered as migrant vide **D. Form No. 009980** under **R/C No. 532/D.**

04. The migration of the proprietor of the petitioner obviously meant that the industrial and business activity related to the petitioner meant to be carried out and conducted at the site of allotted and held Shed No. 5 Bagh-i-Ali Mardan Khan Industrial Area, Srinagar also suffered abandonment with stock in trade as well.

05. Later on **31.03.1991**, a fire is said to have broken out in the Bagh-i-Ali Mardan Khan Industrial Area, Srinagar in which the factory unit of the petitioner is also said to have suffered extensive damage including the shed and stock in trade of the petitioner.

06. The pain point of the petitioner came up when the very said industrial unit site allotted to and held by the OWP No. 113/2005



petitioner in the form of Shed No. 5 came to be allotted to the respondent No. 6 – Mr. Rafiq Qadiri, the Proprietor of Qadiri Chemicals Industries, Ganderbal Estate, Kashmir which constrained the petitioner to file a writ petition bearing **OWP No. 488/1996** before this Court which came to be allowed in terms of a judgment dated **31.01.2000** with a direction to allot similar shed to the petitioner within stipulated period and if not then to cancel the purported allotment of Shed No. 5 made to the respondent No. 6 and possession of the same very Shed No. 5 to be delivered to the petitioner. Timeline given for doing needful as directed in terms of judgment dated **31.01.2000** was six months.

07. Vide an Order **No. IDC/CS/2000/7** dated **22.06.2000** the petitioner was apprized about the allotment of two sheds to it bearing **Nos. DS/NB 7 & 8** on the terms and conditions set by the Industrial Development Corporation Ltd. at the site from the original industrial estate of Bagh-i-Ali Mardan Khan Industrial Area, Srinagar.

08. The petitioner was called upon to bear the rate of rent for the allotment not on original rate of rent on which the petitioner was allotted shed No. 5 but even premium payment of **Rs. 15,000/-** was demanded and rate of rent at **Rs. 2,625/-** per shed monthly was meant to be levied.



09. Thus, the alleged compliance of the writ court judgment was meant to be serving a mirage which led the petitioner to file a contempt petition **No. 39/2001** during the pendency of which an order **No. IDC/CS/2000/7/265-71** dated **11.10.2001** came to be passed by the respondent No. 4 – General Manager, District Industries Centre, Exhibition Ground, Srinagar modifying the order **No. IDC/CS/2000/7** dated **22.06.2000** related to the purported allotment of two sheds to the petitioner situated at Rangret.

10. The contempt petition so preferred by the petitioner was closed in terms of an order dated **12.10.2001** purportedly on the development that the compliance has been carried out but the said compliance was assailed by the petitioner to be nothing but an eyewash as he was asked to pay premium treating the allotment of two sheds to be on the same terms as applicable to the respondent No. 6 – M/s Qadiri Chemicals Industries at Bagh-i-Ali Mardan Khan Industrial Area, Srinagar.

11. The petitioner came forward with a fresh contempt petition bearing **COA(W) No. 33/2003** during the pendency of which a fresh order **No. IDC/CS/2003/59** dated **26.03.2003** came to be passed in terms whereof modification to earlier two orders of allotment **No. IDC/CS/2000/7** dated **22.06.2000** & **No. IDC/CS/2000/7/265-71** dated



11.10.2001 was carried out by deleting clause No. 2 thereby dispensing with payment of premium requirement for two sheds allotted at Rangret but the rest of the terms and conditions remained unchanged to the extent even the petitioner was asked to pay the rent in advance for one year at the prevalent rate of rent amounting to **Rs. 5,250/-** instead of **Rs. 150** per month at which rate of rent the petitioner was holding allotment of shed No. 5 in Bagh-i-Ali Mardan Khan Industrial Area, Srinagar.

12. By virtue of an order **No. IDC/B/2004/73** dated **06.04.2004** purportedly issued by the General Manager (ROK) of the JK SIDCO, the petitioner was given the shock of cancellation of the allotment while the contempt petition **COA(W) No. 33/2003** was pending adjudication which resulted in the petitioner coming up with the institution of the present writ petition. The order **No. IDC/B/2004/73** dated **06.04.2004** reads as under:-

“Order No:- IDC/B/2004/73

Dated :- 06.04.2004

Reference :- Shed Allotment Order No. IDC/CS/2000/71 dated 22.06.2000 and subsequent corrigendum No. IDC/CS/2000/17/285-71, dated 11.10.2001 issued in favour of M/s Sports Goods Industry at Industrial Complex, Rangreth.

Whereas, two built up sheds bearing No. DSNB 7 & 8 were allotted to M/s Sports Goods Industry vide above referred allotment orders for setting up sports manufacturing unit at Industrial Complex, Rangreth.



Whereas, the said party failed to complete the necessary formalities which includes payments of premium and annual shed rentals, execution of lease deed and taking over the charge of allotted sheds within the stipulated time period as mentioned in the above referred shed allotment order.

Whereas, it has been observed that M/s Sports Goods Industry have failed to complete the required formalities even till date despite our repeated correspondence vide letters dated 24.02.2003 and 09.06.2003, the Corporation has inferred beyond any doubt that the unit holder is not at all interested to set up the unit, as such the above referred shed allotment order issued favouring M/s Sports Goods Industry is hereby cancelled with immediate effect.

sd/-
(Mohammad Fuazzan)
General Manager (ROK)”

13. In order to challenge the course of development and the sequence of events leading to passing of aforesaid order **No. IDC/B/2004/73** dated **06.04.2004**, on the grounds as set out in paragraph 19(a) to (j), the petitioner seeks the following reliefs through the medium of the present writ petition:—

- I. *That the present writ petition be allowed;*
- II. *That by issuance of a writ of certiorari, the impugned order being Order No. IDC/B/2004/73 dated 06.04.2004 issued by the respondent No. 4 be quashed;*
- III. *That by issuance of a writ of mandamus, the respondents be directed to return the possession of Shed No. 5, Bagh-i-Ali Mardan Khan Srinagar –Kmr back to the petitioner together with the land underneath and appurtenant thereto;*



IV. *That, by issuance of a writ of mandamus, the respondent No. 6 be directed to vacate the premises i.e. Shed No. 5 together with the land underneath and appurtenant thereto at Bagh-i-Ali Mardan Khan, Srinagar Kashmir.*

14. Objections on behalf of the respondents No. 1 to 5 to the writ petition came to be filed followed by filing of supplementary affidavit from the end of the petitioner.

15. This petition came to be admitted for final hearing on **22.07.2013** and the reply/objections filed to the writ petition were taken to be counter affidavit.

16. In terms of an order dated **24.11.2016**, this Court registered its serious concern with respect to conduct on the part of the Director, Industries & Commerce, Srinagar in failing to furnish the requisite record even to the extent of disregard to the communication from the office of learned AAG. The requisitioned record was relatable to the allotment of shed No. 5 to the respondent No. 6 - M/s Qadiri Chemicals Industries by the competent authority.

17. It is in the aforesaid backdrop that this writ petition came to be heard for the purpose of according much awaited disposal to it.



18. In terms of stand point of the officials respondents, it has been stated that by reference to the petitioner's writ petition **OWP No. 488/1996** disposed of by this Court on **31.01.2000**, the direction for allotment of a similar shed to the petitioner came to be imparted on the basis whereof the purported compliance was carried out from the end of the official respondents vide Order **No. IDC/CS/2007/2000** dated **22.06.2000** followed by order **No. IDC/CS** dated **26.06.2003**.

19. Insofar as the allotment of shed No. 5 which originally was relatable to the petitioner but subsequently allotted to the respondent No. 6 - M/s Qadiri Chemicals Industries, it is stated that the respondent No. 6 had approached the Commissioner, Industries & Commerce for seeking allotment of an industrial shed in the Bagh-i-Ali Mardan Khan Industrial Area, Srinagar on the basis whereof the requisite exercise was undertaken culminating in re-allotment of the gutted shed No. 5 to the proprietorship concern of the respondent No. 6 by virtue of letter **No. DIC/RSU/1234-36** dated **19.04.1996** followed by execution of a lease agreement on **02.05.1996** with the ground rent of **Rs. 2,780/-** and premium of **Rs. 23,162/-** on the basis whereof the respondent No. 6 raised construction at the site of the gutted industrial unit of the petitioner's Shed No. 5.



20. It came to be stated by the official respondents in their reply/objections that there was no available vacant industrial shed in the industrial estate at Bagh-i-Ali Mardan Khan Industrial Area, Srinagar as the same stand already allotted and leased to different entrepreneurs which constrained alternate allotment of built up industrial sheds/plots to the petitioner at the Industrial Estate, Rangret on the same terms and conditions as applicable to M/s Qadiri Chemicals Industries upon execution of a lease-deed with J&K SICOP.

21. When this Court examines in and out of the case of the petitioner as well as the position of the respondents, this Court finds that the official respondents though the then incumbents actually played upon the misery of the proprietor of the petitioner who by force of circumstances was constrained to migrate from Kashmir to Jammu for safety of life and limb, while being holder of property, be it freehold or lease hold, in Kashmir which includes the leasehold estate of shed No. 5 and that was always meant to be protected and preserved for the benefit of none else than the petitioner's proprietor and his next ones and for none else and that was the least solemn obligation and responsibility of the State and its instrumentalities and Departments, but instead the absence of the petitioner's proprietor was taken to be a



matter of exploit by ordering the cancellation of the industrial Shed No. 5 otherwise meant for and in use and occupation of the petitioner without bothering an eyelid at the end of the official respondents that a Kashmiri migrant has escaped from the Kashmir for the safety of his life and limb with his industrial unit left behind which required to be protected rather than perverted and this is where the injustice against the petitioner set in with allotment of the same very shed No. 5 taking place in favour of the respondent No. 6 and the petitioner being meant to be given lip service with allotment of an alternate plots at Industrial Estate, Rangret that too as if the petitioner was becoming a new allottee rather than reckoning it to be an original allottee to have the lease of the new allotted plots without any change of terms and conditions on the basis whereof the original shed No. 5 at Bagh-i-Ali Mardan Khan Industrial Area, Srinagar had taken place.

22. This Court has no hesitation to observe for reasons borne out from record that the State, instead of acting as a protector of the property of the petitioner acted as a predator and that is where this Court finds that the petitioner was subjected to an unfair and inequitable treatment at the end of the official respondents for which justice is due to be



restored and done to the cause and claim of the petitioner but by adjusting the equities of the changed time.

23. Even the rules of natural justice were thrown to winds at the end of the official respondents in prejudicing the vested claim and entitlement of the petitioner with respect to allotted Shed No. 5. In the turmoil time it could not have been expected from the end of the petitioner by the official respondents to come back to Kashmir for the purpose of restoring the industrial activity when the very safety and security of a person of Kashmiri community was far from being secured at the relevant point of time and that aspect should have never been missed out from its mind by the State and the official respondents before holding that the petitioner was not found running its industrial unit at the site of Shed No. 5 so as to suffer cancellation of allotment and re-allotment to the respondent No. 6.

24. Accordingly, this writ petition is **disposed of** with a direction unto the official respondents No. 1 to 5 to carry forward the allotment of two sheds at Industrial Estate, Rangret in favour of the petitioner, if the same are very much available and vacant to be extended to the petitioner for its use and occupation and if the same are not available then new ones but without charging any premium for the allotment of the same but at the rate of rent prevalent to be



prescribed that too without insisting for any arrears but only for the prospective time reckoning from the entry of the petitioner in use and occupation of the two sheds at Industrial Estate, Rangret.

25. ***Disposed of.***

26. The detailed judgment is following the order dated 25.04.2023 vide which this petition was ordered to be disposed of as is hereby being done.

JAMMU
18.04.2026
Muneesh

