

HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT SRINAGAR

WP(C) 1618/2023  
CM (3785/2023)

Ali Mohammad Wani.

...Petitioner(s)

Through: Mr. Shabir Ahmad Najar, Advocate.

Vs.

Union Territory of J&K and Ors.

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA vice  
Mr. Faheem Nisar Shah, GA.

**CORAM:**

Hon'ble Mr. Justice Wasim Sadiq Nargal, Judge.

**ORDER**  
22.04.2026

**01.** The record reveals that the instant petition was filed way back on 14<sup>th</sup> June, 2023. Thereafter, number of opportunities were granted to the respondents for filing the response. Even last opportunity was granted to the respondents vide order dated 31<sup>st</sup> October, 2025, however, no response came to be filed. Accordingly, this Court vide order dated 28<sup>th</sup> November, 2025 closed the right of the respondents to file the reply.

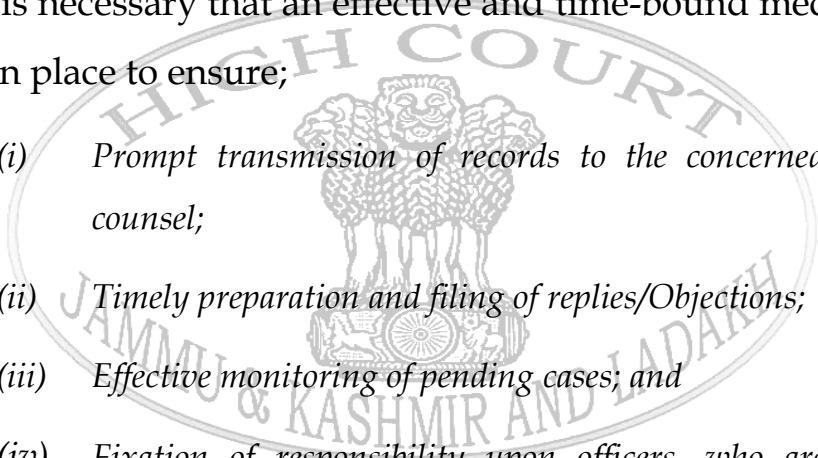
**02.** Thereafter, the matter was again listed on 9<sup>th</sup> March, 2026, on which date Mr. Hakeem Aman Ali, learned Deputy Advocate General appeared vice Mr. Faheem Nisar Shah, learned Government Advocate, and the learned counsel was directed to produce the record on the next date fixed in the matter.

**03.** Today, when the case was taken up, neither the record has been produced nor there is any representation on behalf of

respondents. However, on the asking of the Court Mr. Ilyas Nazir Laway, learned Government Advocate has caused appearance.

04. From a bare perusal of the orders passed by this Court in the instant matter from time to time, it is apparently clear that the respondents have not bothered to comply with the orders passed by this Court from time to time, which has ultimately led to closure of their right to file the reply. The failure of the respondents even to produce the record, depicts that the respondents have shown scant respect to the orders of this Court and taking the orders passed by this Court from time to time very casually.

05. It is being noticed by this Court that in a large number of cases involving the Government, replies are not being filed within the stipulated time, despite repeated opportunities being granted. Such a practice not only contributes to the mounting backlog of cases, but also seriously impedes the efficient administration of justice. It is necessary that an effective and time-bound mechanism is to put in place to ensure;

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- (i) *Prompt transmission of records to the concerned counsel;*
  - (ii) *Timely preparation and filing of replies/Objections;*
  - (iii) *Effective monitoring of pending cases; and*
  - (iv) *Fixation of responsibility upon officers, who are remiss in discharging their duties.*

06. Such a mechanism would not only facilitate effective representation of the Government before the Courts, but also obviate the necessity of passing coercive orders against the Government and safeguard the public interest.

07. It is further brought to the notice of this Court that the learned Law Officers have been consistently issuing communications/reminders and made telephonic requests in this regard to the concerned officers for filing of reply in time, yet the parawise reply is/are not being given to the counsel engaged well

in time, with the result the counsel representing a particular department is not a position to file the response well in time. In case, that be the position, then the Secretary Law shall fix the responsibility on such officers, who are remiss in drafting of parawise comments/reply well in time, as a result of which, adverse orders are passed against the Government and interest of Government are hampered in such like cases.

**08.** Apart from this case, there are a number of cases listed today wherein despite availing repeated opportunities and last opportunity as well, the respondents have not bothered to file reply, the details of which can be procured from the Registry.

**09.** One more case titled "Ali Mohammad Sofi vs Union Territory of J&K and Ors" was listed at Serial No. 19 in today's cause list before this Court, wherein also despite availing last and final opportunity, the respondents have failed to file the reply and the right to file the reply was closed. The order passed today in the aforesaid case has also been forwarded to the office of the Law Secretary for perusal and necessary action.

**10.** One of the measures to judge democratic commitment of any Government is the respect it accords to the orders of the Court. At the same time, the real majesty of the Court lies in its vibrant existence and effective functioning. Such vibrancy and effectiveness, in turn, would be achieved by ensuring due implementation and swift obedience of the judgments and orders of the Court. The speedy implementation of the orders of the Court is inextricably interwoven in the enforcement of rule of law. It is part of observance of rule of law.

**11.** Timely compliance of the orders and directions of the Court is not a matter of discretion, but a constitutional imperative. Any delay or indifference in adherence thereto strikes at the very root of the rule of law and has the tendency to erode public confidence in the administration of justice. The Union Territory and

its authorities, being vital stakeholders in the justice delivery system, are under a bounden obligation to act in aid of the Court and to ensure the expeditious culmination of proceedings. Any conduct on the part of the State that impedes or obstructs the timely disposal of cases is wholly impermissible and undermines the faith of the common man in the efficacy and credibility of the judicial process.

**12.** It needs to be emphasised that judicial orders can not be rendered nugatory by executive inaction or indifference. Any conduct on the part of the State that obstructs, delays, or defeats the due enforcement of such orders is plainly impermissible and incompatible with constitutional discipline.

**13.** Such a course, if permitted, would not only impair the efficacy of the judicial process but would also diminish the authority of the Courts and erode the faith reposed by the common citizen in the fairness, credibility, and effectiveness of the justice delivery system.

**14.** The lackadaisical approach of the respondents in not filing the reply timely is highly deprecated by this Court and the respondents have to evolve an effective measure for providing assistance well in time, so that, the justice delivery system is not hampered and the Court time is not wasted on gaining opportunities without any justifiable cause.

**15.** Despite number of directions issued by this Court regarding non-filing of the response as also non-appearance of the counsel in the matters concerning Government, no effective and concrete mechanism is being put in place so as to render effective assistance on behalf of UT in absence of reply on behalf of Government. Earlier also, an order dated 7<sup>th</sup> August, 2024 was passed by this Court in WP(C) 1353/2023 titled "*Madan Lal & Ors vs Union Territory of J&K and Ors*" whereby it was impressed upon the respondent authorities to evolve effective measures for

providing proper and timely assistance, so that the justice delivery system is not hampered and the Court time is not wasted on gaining opportunities without any justifiable cause. However, the situation remains the same, with repeated instances of non-compliance persisting unabated, thereby reflecting a lack of seriousness on the part of the concerned authorities and defeating the very purpose of the directions issued by this Court.

**16.** In this view of the matter, this Court is left with no option but to seek the personal appearance of Secretary, Department of Law, Justice and Parliamentary Affairs, so that this Court is apprised about the necessary and effective steps being taken for rendering effective assistance on behalf of Government.

**17.** In view of the above, let the Secretary, Department of Law, Justice and Parliamentary Affairs appear in person before this Court on the next date of hearing. The Law Secretary shall apprise this Court of the steps being taken to ensure that cases concerning the Government are properly defended and the interests of the Government are duly protected, and such matters do not remain unattended.

**18.** The Registry is directed to forward a copy of this order, along with the similar orders referred hereinabove, to the Secretary, Department of Law, Justice and Parliamentary Affairs for information and appropriate action. The Secretary, Law shall examine the issue and take necessary steps for putting in place and establishing an effective mechanism to ensure timely assistance to the Government counsel by the concerned officers and strict compliance with Court directions in all matters concerning the Government.

**19.** The present order is being passed only to ensure that an effective mechanism is put in place, so that the replies are filed well within time so as to obviate the necessity of passing coercive orders against the Government and safeguard the public interest.

**20.** List again on 27<sup>th</sup> April, 2026 on which date, the Secretary, Department of Law, Justice and Parliamentary Affairs, shall appear in person before the Court.

**21.** Interim direction, if any, subsisting as on date to remain in operation till the next date of hearing before the Bench.

**(Wasim Sadiq Nargal)**  
**Judge**

**SRINAGAR:**

22.04.2026

"HAMID"

