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

CRM(M) No. 140/2020

Reserved on: 04.08.2026
Pronounced on: 12.08.2026
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Whether the operative part or full judgment is pronounced? *Full*

Laiq Parvez, aged about 61 years
S/o Abdul Kabir Kraipak,
R/o Green Avenue, Airport Road,
Hyderpora, Srinagar.
…Petitioner(s)/Appellant(s)

Through: Mr R. A. Jan, Sr. Adv. with Ms Safa Aziz, Adv.

Vs.

Union Territory of JK Through
Anti-Corruption Bureau, South Kashmir.
...Respondent(s)

Through: Mr. Mohsin Qadiri, Sr. AAG with
Ms. Maha Majeed, AC & Mr. Haris Khan, Adv.

CORAM:
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

JUDGMENT

1. The petitioner has invoked the extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure (CrPC) seeking quashing of FIR No. 03/2020 registered on 7 July 2020 by Police Station, Anti-Corruption Bureau, (ACB), South Kashmir, for offences under Section 5 (1) (d) read with Section 5(2) of the Jammu and Kashmir Prevention of Corruption Act. Svt. 2006 (PC Act), and Section 120-B of Ranbir Penal Code (RPC).

Factual Matrix:

2. The petitioner served as General Manager (GM) District Industries Centre (DIC), Pulwama, from June 2017 to the ending of February 2018. He retired on 30 April 2019 as Programme Officer, ICDS, Kulgam. During his tenure as GM, DIC, Pulwama, he issued land allotment orders and executed lease deeds in favour of various unit holders. After his retirement, ACB served a questionnaire dated 17 October 2019 in Verification No. 07/2018

alleging lack of competence, violation of the Industrial Policy, 2016, adopted vide Government order No. 58-IND of 2016, dated 15 March 2016 and Procedural Guidelines of Industrial Policy, 2016-26, notified vide Government Order No. 129-IND of 2017, dated 7 June 2017. It was specifically stated in the questionnaire that petitioner had hatched a conspiracy with the unit holders for his personal monetary gains and undue benefit upon the unit holders, and had thereby abused his official position.

3. The genesis of the questionnaire was a written complaint lodged by one Mukhtiyar Yousuf, President, Federation of Chambers of Industries, Kashmir, alleging that DIC, Pulwama had become a hub of corruption with fixed rates of bribes under the patronage of General Manager.

4. The petitioner replied to the questionnaire on 25 October 2019, specifically relying upon Clauses 2.12.1, 2.12.2 and 2.12.5 of the Industrial Policy, 2016, contending that the power to allot land and execute lease deeds for Units vested in the GM, DIC. However, during verification, the ACB formed the opinion that during the petitioner's tenure as GM, DIC, Pulwama, he had made allotments of land to various unit holders in gross violation of the Industrial Policy, 2016 and the procedural guidelines, 2017, thereby abusing his position, and conferring undue advantage upon the unit holders for personal gains. This led to registration of formal FIR No. 03/2020 alleging that allotment of land and execution of lease deeds was the exclusive domain of Jammu and Kashmir State Industrial Development Corporation Limited (SIDCO) and the Jammu and Kashmir Small Scale Industries Development Corporation Limited (SICOP), and that the petitioner had abused his position in making such allotments.

Submissions and Challenge:

5. The petitioner contends that the allegations in the FIR even if taken at face value, do not ex-facie disclose the commission of the offence of criminal misconduct under Section 5 (1) (d) and 5(2) of PC Act. Under the Industrial Policy, 2016 and Procedural Guidelines, 2017, the GM, DIC is competent to allot land on lease to unit holders having investment in plant and machinery upto ₹ Rs. 5 Crore and to execute lease deeds. It is further contended that the petitioner, while posted as GM, DIC, Pulwama from June

2017 to February 2018, acted strictly within the domain of his power. There was no abuse of official position, no personal monetary gain and no conspiracy as alleged. It is also submitted that the registration of the FIR and the commencement of investigation lack the *sine-quo-non* of **"reason to suspect"** the commission of a cognizable offence and amount to abuse of process of law, violating Article 21 of the Constitution.

6. Mr. R. A. Jan, learned senior counsel, vehemently argued that in terms of Clause 2.12.1, 4.2.1 and 4.2.2 of Industrial Policy, 2016, the GM, DIC is the competent authority to allot the land to unit holders in respect of Micro, Small and Medium Enterprises (MSMEs) having investment in plant and machinery upto ₹. 5 Crore. It was further argued that the petitioner specifically invoked these Clauses and demonstrated that his actions were within his competence; the premise of the questionnaire was factually unfounded and legally misconceived. Learned counsel submitted that despite a satisfactory reply in tune with the industrial policy, FIR was still registered, which constitutes an abuse of the process of law. Learned counsel further contended that there is no **"reason to suspect"** commission of a cognizable offence, which is the *sine-quo-non* for setting criminal law in motion under Section 157 of CrPC. According to the petitioner, the registration of the FIR and the investigation therefore constitute an abuse of process and violate Article 21 of the Constitution.

7. Learned senior counsel laid much stress on the submission that the Procedural Guidelines, 2017, particularly paragraphs 3.1, 3.2, and 4.1, apply primarily to new industrial estates to be notified by SIDCO/SICOP after the 2016 Policy; and that they do not denude the General Manager, DIC of the power to make allotment conferred under the Industrial Policy, 2016.

8. In support of his arguments, learned senior counsel placed reliance on the judgment of the Hon'ble Supreme Court in **State of West Bengal & Ors. vs. Swapan Kumar Guha, (1982) 1 SCC 561; State of Haryana & Ors. vs. Bhajan Lal & Ors. 1992 Supp (1) SCC 335; Amit Kapoor vs. Ramesh Chander & Anr., (2012) 9 SCC 460;** and **Neeharika, Infrastructure Pvt. Ltd. Vs. State of Maharashtra & Ors. (2021) 19 SCC 401.** The judgment in Neeharika (supra) is also relied upon by the respondent.

9. Ex-adverso, the respondent has filed status reports from time to time and has taken the stand that verification was triggered by a complaint from the President, Federation of Chambers of Industries, Kashmir, alleging that DIC, Pulwama had become a hub of corruption. It is contended that during verification, it emerged that the petitioner, while serving as GM, DIC, Pulwama from June 2017 to February 2018, had issued land allotment orders and executed lease deeds in favour of numerous unit holders in violation of the Industrial Policy, 2016 and the Procedural Guidelines, 2017. According to the respondent, under the Policy and Guidelines, allotment of land and execution of lease deeds fall within the exclusive domain of SICOP/SIDCO. An officer notified by the Corporation is require to issue the final allotment order within seven days of Single Window Clearance Committee (SWCC) approval, and lease deeds are required to be executed by the allottee with SICOP/SIDCO within 60 days.

10. The contention of the respondent is that the petitioner had himself issued allotment orders and executed lease deeds, thereby abusing his official position, making selective applications of the policy and conferring undue benefit upon the unit holders. It is also contended that Industrial Estate, Pulwama and Chatpora, measuring less than 500 Kanals, had already been transferred to SICOP vide order No. 48-IND of 2017 dated 3 March 2017 and handed over on 20 April 2017. Despite the land in question having been transferred to SICOP, the petitioner continued to exercise powers that no longer vested in him. The respondent has also drawn support regarding the Departmental Enquiry Committee and the subsequent Expert Committee, which found that irregularities in approximately 62 Units. It was found that some allotments were made without SWCC clearance, some after clearance but without competence, and that physical applications were accepted contrary to the online- only mandate.

11. According to the respondent, investigation is continuing; documents relating to 42 Units have been sent for FSL examination; the signatures have matched those of the petitioner; and the role of other officers is being examined. The case is based on documentary evidence of abuse of position resulting in undue advantage. The respondent has, therefore, prayed for

dismissal of the petition and for allowing the investigation to reach its logical conclusion.

Analysis:

12. The FIR under challenge was registered against the petitioner primarily on the allegations that he issued allotment orders himself in favour of unit holders and executed lease deeds, thereby abused his official position, made selective application of the policy and conferred undue benefit upon the unit holders in violation of the Industrial Policy, 2016 and the Procedural Guidelines, 2017. On a reading of Clause 4.2.2 read with Clause 2.12.1, the petitioner claims competence both to allot land and to execute lease deeds of the MSME Units having investment upto ₹ 5 Crore.

13. On the contrary, on the respondent's reading, which finds support from the findings of the Departmental Committees and the Expert Committees after the 2017 transfer of the estate to SICOP and in the light of paragraphs 3.2 and 4.1 of the Guidelines, the final allotment order and execution of lease deed were exclusively within the domain of the Corporation.

14. The petitioner is alleged to have continued exercising these powers even after the estate had been handed over and, in several cases, without or after SWCC clearance. A cursory look at the Clause 2.12.1 and 4.2.2. of the Industrial Policy, 2016 shows that the GM, DIC is empowered to allot land to unit holders in respect of MSME Units having the investment in plant and machinery upto ₹ 5 Crore. However, before reaching the stage of allotment, certain formalities were required to be completed and considered by the competent authority. In terms of Clause 2.12.1, the General Manager, DIC was empowered to consider the request for allotment of land and to determine the size of the plot to be allotted as per the latest guidelines under Ease of Doing Business (Chapter-4 of Industrial Policy, 2016). The Committee was required to ensure that the size of the plot allotted was not more than what was required for the Unit. It is, therefore, clear that before making any such allotment, the Committee had to assess the size of the plot as per the requirement of the unit. Hence, it is incorrect to say that the

General Manager, DIC was the sole authority to assess the requirement and the size of the plot.

15. Similarly, under Clause 4.2.1 of the Industrial Policy, 2016, online registration was made mandatory. The unit holders were required to apply online for EM-I registration along with the requisite documents. Under Clause 4.2.1 (c), for earmarking and allotment of land, the General Manager, DIC was required to forward the indent through email to the concerned Estate Managers of SICOP/SIDCO with a copy thereof to the Pollution Control Board, etc. Under Clause 4.2.1(d), the Manager Estate, SICOP/SIDCO was required to earmark the land within seven days from the date of receipt of the email and report back to the General Manager, DIC online about the demarcation of the land.

16. The Procedural Guidelines, 2017 for implementation of Industrial Policy-2016, specifically provide that all Units, as per the cut off value of plant and machinery, are to be appraised and approved by the SWCC and the Apex Project Clearance Committee (APCC). For approval of units with investment in plant and machinery upto ₹ 5 Crore, the composition of the SWCC is as under:-

> (i) General Manager (DIC) as Chairman; (ii) Executive Engineer/AEE, PDD concerned as Member; (iii) District Representative of SPCB as Member; and (iv) Estate Manager SIDCO/SICOP, as the case may be, as Member.

17. Therefore, even for allotment of land to unit holders having investment upto ₹ 5.00 Crore, the decision was required to be taken by the Committee headed by the General Manager, and not by the petitioner solely.

18. As per paragraph 3.2 of the Procedural Guidelines of 2017, the final allotment order is to be issued by the officer notified by SICOP/SIDCO within seven days of SWCC approval. Paragraph 4.1 deals with the lease deed, which is required to be executed by the allottee with SICOP/SIDCO within 60 days.

19. The principal contention of learned counsel for the petitioner is that the procedural guidelines of 2017 regarding land allotment pertain to the competence of SICOP/SIDCO in respect of new industrial estates to be notified and published in newspaper, whereas land already available in the Land Bank of DIC is to be allotted by the General Manager, DIC.

20. The above contention does not sustain on the factual matrix. From a perusal of the case diary it is seen that the petitioner made as many as 48 allotments of industrial estates which had already been handed over to and taken possession of by SICOP. Therefore, the distinction sought to be drawn between industrial estates available with DIC and those at the disposal of SICOP/SIDCO becomes wholly irrelevant in view of the factual narration emerging from the case diary, which unequivocally shows that petitioner even ventured to allot industrial estates which had already been transferred to SICOP.

21. A perusal of the case diary further reveals that investigation is also continuing in respect of the role of the accused-beneficiaries whose cases had earlier been rejected but were later processed and recommended by the petitioner. It further appears that the role of the General Manager, Srinagar is also under cloud and is being investigated as to why he failed to designate a Special Officer for effecting land allotment/lease execution in terms of the guidelines and maintained silence. Even the lands which had been transferred in favour of Corporations were brazenly allotted by the petitioner without any competence or jurisdiction. The role of other officers who were supposed to take over the industrial estates and who ought to have objected to or raised concerns regarding the modus operandi of the petitioner is also being ascertained. Thus, the investigation is not restricted only to the role of the petitioner; the role of other officers of the Corporation who, in terms of Industrial Policy, 2016 and Procedural Guidelines, 2017 were placed at the helm of affairs in respect of the land transferred to the Corporation but remained silent is also under investigation.

22. Once it is found that as many as 48 allotments of industrial estates, possession whereof had already been handed over to SICOP, were made by the petitioner, the questions whether particular plots were already under SICOP control and whether SWCC clearance preceded or followed the orders are matters for investigation and record.

23. In the given facts and circumstances, to stifle investigation would amount to putting a premium on the alleged acts when the investigation has been carried into different aspects involving a huge chunk of land earmarked for establishment of the industries, which, for alleged extraneous reasons,

came to be allotted by flouting the norms and the policy. The perusal of the case diary indicates the interlinked nature of the allegations and shows that the investigation is not restricted only to the petitioner. When conspiracy is alleged, the role of the petitioner, the beneficiaries and the officers of SICOP/SIDCO form part of the same chain of events. Investigation into the conduct of the beneficiaries and the Corporation officers is not a separate or independent enquiry. It is necessary to examine:

(i) Whether undue benefit was actually conferred;

(ii) Whether there was concerted action;

(iii) Whether the petitioner acted alone or in league with others; and

(iv) Whether the Corporation officers remained silent or facilitated the process.

24. So far as the judgments relied upon by the petitioner, none of these decisions advances the case of the petitioner for the following reasons:

a. The FIR is not founded merely on a vague complaint. It is the culmination of a formal verification, the report of the Departmental Enquiry Committee, the Expert Committee findings pointing irregularity in approximately 62 units, and the admitted fact that the industrial estates at Pulwama and Chatpora had already been transferred to SICOP on 20 April 2017. Despite this transfer, the petitioner made as many as 48 allotments.

b. The General Manager, (petitioner) had accepted the physical applications contrary to the online mandate, and processed the previously rejected cases, which further indicate *prima facie* undue benefit and abuse of official position.

c. The investigation is still at a nascent stage. Documents of 42 units have been sent for FSL examination, the role of co-accused beneficiaries is under scrutiny, and the conduct of other officers of SICOP/SIDCO, who remained silent is being examined.

d. The investigation is looking into interlinked roles of the petitioner, the beneficiaries and officers of the

Corporation. Therefore, whether undue advantage was conferred or not is a matter requiring full investigation.

25. It is trite that when the roles are interwoven, quashing the proceedings against one accused while investigation against others continues would lead to incomplete and truncated investigation.

26. The offence under Section 5(1) (d) and 5(2) of PC Act is attracted if a public servant, by abusing his official position, obtains for himself or for any other person any valuable thing or pecuniary advantage. Even if the petitioner contends that he had competence under the industrial policy, the investigation is still examining; whether the power was exercised after the estates had been transferred to SICOP; whether SWCC clearance was obtained before or after the orders; whether selective benefit was conferred; and whether the act resulted in undue advantage to the unit holders. These questions require collection and evaluation of documentary evidence relating to the beneficiaries and the Corporation officers.

27. Drawing the lines of jurisdiction for making allotment of land for establishing industrial units by interpreting certain Clauses and paragraphs of the Industrial Policy, 2016 and the Procedural Guidelines, 2017 becomes irrelevant because, the petitioner is alleged to have made allotments of those patches of land which had already been transferred to SICOP on 20 April 2017, i.e., much before he took over as General Manager, DIC, Pulwama.

28. At this stage it is also relevant to note that the Industrial Policy, 2016 and Procedural Guidelines, 2017 were adopted by the Government in exercise of its Plenary Administrative/Executive power. The petitioner cannot contend that he was bound only by the Policy and not by the Procedural Guidelines. He was enjoined to carry out the mandate of Industrial Policy, 2016 in accordance with and in consonance with the procedure laid down by the Government for its implementation.

29. Whether or not there exists "**reason to suspect**" or mens rea or dishonest intention is too early to form an opinion at this stage. At the stage of quashing, the court does not conduct a mini trial, it may only examine whether the FIR and the accompanying material read with the governing policy, disclose the necessary ingredients of the offence. In this regard, the fact that on 20 April 2017 the estates which formed the subject matter of the

allotment were handed over to SICOP is a significant factual circumstance. Continuance of allotment powers by the General Manager thereafter would require clear justification. Multiple status reports indicate that the investigation is still examining individual files, SWCC Minutes and the role of other officers.

30. As long as the investigation into the role of the beneficiaries and the officers of SICOP/SIDCO is continuing and is relevant to establishing or negating the ingredients of Section 5(1) (d) and 5(2) of PC Act read with section 120-B RPC against the petitioner, the court cannot be justified in holding that **"no reasonable suspicion"** exists and in stifling the investigation against him at this stage. However, it goes without saying that only after the investigation is complete, or if at any stage the material collected against the petitioner ex-facie fails, can the question of quashing be examined. To hold otherwise would amount to truncating an investigation which is looking into wider aspects of the matter involving the role of officers of other interlinked departments tasked with the establishment of industrial parks/unit holders etc.

31. For the foregoing reasons, the petition, being bereft of merit is accordingly dismissed.

32. The CD file be returned to Mr. Mohsin Qadiri, learned Sr. AAG for onward transmission to the concerned Police Station with due dispatch.

(SHAHZAD AZEEM)
JUDGE

SRINAGAR:
12.08.2026
Altaf

Whether approved for reporting? Yes