

Government of Jammu and Kashmir
Jal Shakti Department,
Civil Secretariat, Jammu/Kashmir.

**Subject:-WP(C) No.1987/2021,CM No.7395/2021 titled Rakesh Kumar
V/s UT of J&K & Ors.**

**Government Order No. 12 -JK(JSD) of 2025
Dated:- 20 .01.2025**

Whereas, the petitioner namely Rakesh Kumar has approached the Hon'ble Central Administrative Tribunal, Jammu through a medium of writ petition titled Rakesh Kumar V/s UT of J&K & Ors with the plea as under:-

- 1. Issue a writ of mandamus commanding and directing the respondents to make appointment to the petitioner on casual/need basis in lieu of the land donated by the donors to the department of PHE OR**
- 2 Issue a writ of mandamus commanding and directing the respondents to pay compensation to the petitioner in lieu of the land acquired by the Department of PHE.**
- 3. Any other order writ or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be granted in favour of the petitioner.**

Whereas, the Hon'ble Tribunal on 21.09.2021 has disposed of the case with the following directions, the relevant portion of which reads as under:-

"In view of the aforesaid, this petition is disposed of by directing the respondents to consider the case of the petitioner as forwarded by respondent No. 5 for his engagement in terms of SRO- 520 dated 21.12.2017, strictly within a period of eight weeks from the date, copy of this order is made available to the respondents by the petitioner.

Whereas, the Executive Engineer concerned Division filed compliance report before the Hon'ble Court which was framed on the basis that the petitioners claim for engagement in terms of SRO-520 dated 21.12.2017 could not be considered as in view of the similar situated case a judgment has been passed by the Hon'ble Court Srinagar in OWP No.1497/2014 titled Ali Mohammad Ahanger & ors V/s State & others wherein it has been directed that land compensation is to be paid instead of job on the grounds as under:-

Any alternative shops or land in lieu of the acquired land./structure. It is settled in law that where the land is acquired , the tenure holder are entitled to compensation in accordance with law or the provisions of the land acquisition act and since the law does not provide for anything other than the compensation the tenure holders or their family members cannot be granted any rehabilitation package.

The full bench of the Allahabad High Court in the case reported in Ravinder Kumar V/s District Magistrate & Ors 2005 (2) AWC 1650 . All has clearly laid down that the Land Acquisition Act is a self-contained Code in itself and that where land is acquired compensation alone is payable in respect of the acquired land as per the provisions of the Act and if there are any Government Orders, Circulars or policy providing for some additional benefits in the shape of employment or rehabilitation such Circulars, Government Orders and the Policy shall be treated as null and void and ignored.

Even the High Court of J&K in Residents of Areas around Civil Airport, Satwari Jammu & Anr V/s Union of India & Ors reported in 2010 (2) JKJ 202 (HC) recognizing the Right to property a constitutional right holds that where there is acquisition of land for public purpose, the land holder is entitled to the compensation only as there is no provision for rehabilitation or for conferring any other benefit.

Whereas, it has also been stated in the compliance report **that the format has been sent to the Administrative Department for processing the case of petitioner for compensation.**

Whereas, the Administrative Department has devised a 30 point format for obtaining the authenticated/ certified information/ documents from the concerned officers as well as revenue functionaries for assessing the compensation of land to the persons who have donated their propriety land to the Government (Jal Shakti) for departmental purposes.

Whereas, while examining the case of the petitioner for compensation in lieu of his donated land , meanwhile the Chief Engineer PHE Jammu has intimated that the site was revisited on 23.11.2024 by the concerned AEE and JE where after it has been reported that the land measuring 01 Kanal 02 Marlas under Khasra No. 170 min, situated at village Pargalta Tehsil Jammu under WSS Kana Chargal is no more required to the department as the Chowkidar quarters constructed over it is no more in use whereas the physical condition of the Chowkidar Quarter is shambled /ruins. A part from ruins of Chowkidar Quarters, nothing is constructed there and also no future construction is planned on that piece of land.

Whereas, the land in question is no longer required by the department and is vacated accordingly.

Whereas, the rental amount, as assessed by the Divisional Commissioner shall be the part of the settlement for the period from the date of mutation of the land in question in favour of PHE Department.

Whereas, the concerned Dy. Commissioner is directed to cancel the mutation of said piece of land measuring 01 Kanal 02 Marlas under Khasra No. 170 min, situated at village Pargalta Tehsil Jammu under WSS Kana Chargal.

Now therefore, the land of the petitioner measuring 01 Kanal 02 Marlas under Khasra No. 170 min, situated at village Pargalta Tehsil Jammu under WSS Kana Chargal is no more required to the department and is vacated and handed over to the petitioner, it is hereby ordered that in supersession of all previous correspondences and orders, if any, issued are hereby withdrawn and the claim of the petitioner for engagement on casual/need basis in lieu of his land is accordingly rejected.

By Order of the Government of Jammu and Kashmir

Sd/-

(Shaleen Kabra)IAS
Financial Commissioner(ACS)
Jal Shakti Department.

No. JSD-LS02(1)/106/2022-Legal-JSD/145565
Copy to the:-

Dated:-20.01.2025

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Ld. Additional Advocate General, J&K High Court, Jammu for information.
3. Divisional Commissioner, Jammu for appropriate action.
- 4 Dy. Commissioner, Jammu for appropriate action.
5. Private Secretary to the Financial Commissioner/ACS, Jal Shakti Department for information of the FC/ACS
6. Special Secretary to the Government, Jal Shakti Department.
7. Petitioner.
8. I/c Website, Jal Shakti Department.
9. Monday Return file (w.2.s.c)
10. Government Order file.


(Rehmatullah)

Under Secretary to the Government.
Jal Shakti Department


20.1.2025