

Government of Jammu and Kashmir
Office of the Principal/Dean
Government Medical College, Srinagar
Legal Section

Subject: - WP (C) No. 1198/2022 titled Mst. Haneefa Vs. UT of J&K and others.

O R D E R NO. 14 of 2022
D A T E D 24 .08.2022

Whereas, the petitioner has filed WP(C) No. 1198/2022 titled Mst. Haneefa shora Vs. UT of J&K and others, wherein she had prayed below relief:-and

- 1. Mandamus commanding the respondents not to interfere with the above said shop of the petitioner.**
- 2. Mandamus commanding the respondents not to cause any harassment to the petitioner while operating/opening the shop of the petitioner.**
- 3. Any other writ, order or direction be also granted in favour of the petitioners as the Hon'ble court deems fit and proper in the attending circumstances of the case.**

Whereas, the Hon'ble High Court has been pleased to disposed of the writ petition with the following orders on 20.07.2022:-

"The short grievance projected by the petitioner in this petition is that she is owner in possession of shop situated at Shireen Bagh opposite SMHS Hospital, Srinagar. The petitioner submits that due to circumstances beyond here control including the death of her husband, the shop remained closed for pretty long time. She further submits that she now intends to open up the shop and start her business, but the respondent-Principal, Government Medical College, Srinagar, is not permitting her to do so.

Learned counsel for the petitioner submits that this petition can be disposed of by directing the Principal, Government Medical College, Srinagar, to hear the grievance of the petitioner and pass appropriate orders, permitting the petitioner to run her business in the shop in question.

Having heard learned counsel for the parties and perused the material on record, I am of the view that having regard to the controversy raised, this petition can be disposed of by providing as under:-

- i. The petitioner shall approach the Principal, Government Medical College, Srinagar by way written representation projected her grievance with regard to the shop in question within a period of one week from today.**
- ii. The Principal, Government Medical College, Srinagar, shall consider the representation, so moved, by the petitioner and**

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shall also provide her an opportunity of being heard before passing an appropriate order.

- iii. Appropriate orders dealing with the grievance of the petitioner shall be passed by the Principal, Government Medical College, Srinagar, within four weeks.
- iv. If the Principal, Government Medical College, Srinagar does not find the claim of the petitioner substantiated and comes to the conclusion that the Shop No. 1 is the property of the Government/Health and Medical Education Department, the petitioner shall be so intimated in writing. However, in case the Principal, Government Medical College, Srinagar finds that the shop in question is owned and possessed by the petitioner, necessary orders will be passed to enable the petitioner to open up her shop and conduct her business.
Ordered accordingly.

Whereas, after receipt of the Hon'ble High Court order dated. 20.07.2022 the official record related to the case and claim projected in the WP(C) No. 1198/2022 was scrutinized and the following facts came to surface.

1. That the petitioner through her partner had earlier filed a writ petition bearing OWP No. 149/2009 titled Oriental Carpet factory Vs. State of J&K and others and later on writ petition came to be disposed of vide judgment dated 15.09.2011, wherein it was provided that the respondents shall be free to take over the possession of the disputed land and the structures stand thereon and the land was needed in the general public interest for setting up a super specialty/Trauma Hospital and the petitioners had already been compensated by the Government and has no right or locus-standi to claim allotment of shop or rehabilitation.
2. That the petitioner had again earlier through her partner filed a writ petition bearing No. OWP No. 1302/2011 titled Fayaz Ahmad Dar Vs. UT of J&K and others. And the petitioner alongwith partner claiming therein to be one of the tenants of immovable property of landlord that has been acquired by the institution for the public purpose (setting up a super specialty/Trauma Hospitals at Shireen Bagh, Srinagar), and the piece of land upon which the structure of shop is unlawfully, illegally occupied by the petitioner is required for connecting the (STP) sewerage treatment plant for the traumatology(Super specialty Hospital) which was vital requirement for the department in the interest of public at large especially for the betterment of patient care and for smooth functioning of the Hospital for the patients whose Diseases/Surgeries are of sensitive nature and the answering respondents then have filed the detailed objections/para-wise reply in the petition before the Hon'ble Court and the writ petition later on came to be disposed of on 06-02-2013 with the direction to the respondents to consider and take decision within two weeks from the date of filling of representation by the petitioner before the office of the respondents and accordingly the respondents have considered the claim of the petitioner especially the representation submitted by the petitioner before the office of respondents and the respondents had examined/considered the representation of the petitioner in light of rule position/standing norms and keeping in view the respondents have no authority/jurisdiction to provide any alternate

space to the petitioner that too when the petitioner is in illegal possession of the said shop in question and claim of the petitioner especially representation had been examined/considered on its merits under rules and found devoid of any merit and rejected vide order No. 100/2013 dated 21.02.2013.

3. That the petitioner through her partner had filed another writ petition bearing OWP No. 82/2013 wherein in the petitioner alongwith her partner claimed that his Medical shop has developed cracks as such has become unsafe, petitioner accordingly prayed in the petition for being provided another shop which accordingly to the petitioner was available adjacent to the petitioners shop and the answering respondents have then filed detailed objections/reply in matter and the writ petition later on came to be disposed of vide order dated 22.01.2013 and the Hon'ble court directed the respondents to take decision preferably within two weeks from the date of filling of representation by the petitioner. Accordingly matter was considered in compliance of the Hon'ble High Court order and same was rejected vide this institution order No. 98/2013 and it was found petitioner was running the Medical shop illegally in as much as rent deed was executed by one Mst. Haneefa Shora who was not the shareholder/owner of land as per the report of the Tehsildar concerned that the land upon which the structure of shop was unlawfully and illegally occupied by the petitioner was required for connecting the (STP) Sewerage treatment plant for the traumatology (Super specialty Hospital) which happens to be the eager requirement for the department in the larger public interest especially for the betterment of patient care and for smooth functioning of Hospital.
4. That the petitioner alongwith her partner had filed another writ petition bearing OWP No.157/2013 titled Fayaz Ahmad Dar Vs UT of J&K and others and the writ petition later on came to be disposed of 15.12.2015 directing therein the respondents to consider the afresh petitioner claim and take a decision within reasonable time frame, preferably within eight weeks from the date copy of the order received by them and accordingly claim of the petitioner has been considered/examined and keeping in view of the general public and patient care in particular the claim of the petitioner is rejected vide this institution order No. 607 of 2016 dated 20.10.2016.

Whereas, the said space/shops illegally occupied by the petitioner is hampering the construction work of the main Entrance Gate of New OPD Block of Super Specialty, Hospital Shireen Bagh, Srinagar, due to which the completion of the project is getting delayed and is against the public interest and jeopardizing the patient care at tertiary care Health facility since it is a matter of public interest and it is well versed proportion of law that individual interest are far that matter smaller public interest must yield to the larger interest and it is a nature principal that the public interest must prevail over the individual or small interest and in this case larger/wider public interests are involved as far as the construction work of main Entrance of the upcoming new OPD Block at Super Specialty Hospital, is concerned the said project will yield enhanced patient care

management services and will provided employment ventures for the unemployed youth of the UT of J&K.

Whereas, the space illegally occupied by the petitioner is coming in the way of construction work of Entrance of newly OPD Block of Super Specialty Hospital, Srinagar, which construction work is undoubtedly in the public interest and therefore, the petitioner has to pave way for the public interest to prevail over his individual interest.

Whereas, the petitioner is deceiving/Misleading the Hon'ble Court by using his misinterpreted facts and habitual litigant approach and have dragged the answering respondents in a false and frivolous litigation and the respondents have already apprised the Hon'ble Court in form of objections/para-wise reply/compliance report which is placed on record before the Hon'ble High Court of Jammu and Kashmir & Ladakh at Srinagar.

Whereas, the petitioner was intimated vide letter No. Estate/MC/SSH-Eviction/913-18 dated 18.08.2022 to approach/attend the office of the Estates Officer,/Eviction Government Medical College, Srinagar alongwith relevant documents in support of her claim and pursuant to the Hon'ble High Court order dated 20.07.2022 and the respondents has given her opportunity of being heard and also heard her plea and the facts which has been mentioned/expressed by the petitioner through her counsel in the writ petition and the representation submitted by the petitioner dated 27.07.2022 and the petitioner has attended the office of the Estates officer, Eviction of GMC, Srinagar, on 22.08.2022 and almost in one and a half hour discussion, the petitioner has failed to produce any document in support to substantiate her claim and has further requested that she has no objection if the respondent will demolish the illegal structure at spot and petitioner has further requested to rehabilitate her in some other Hospital and in return Estate officer, Eviction has intimated and made her aware about the policy of Government and institution as well and this institution has no competence/jurisdiction to rehabilitate any un-authorized occupant and if any person is interested to earn proper shop/space in the hospital GMC, Srinagar are either Associated Hospitals, GMC, Srinagar, for that there is a proper procedure to participate in the E-tendering process of this institution which is happening almost as per normal recourse in the Government Medical College, Srinagar.

Now, therefore, in compliance of the Hon'ble High Court order dated 20.07.2022 passed in the WP(C) No.1198/2022 titled Mst. Haneefa Shora Vs. UT of J&K and others and the representation of the petitioner submitted on 27.07.2022 and in light of rules/standing orders governing the field especially representation of the petitioner dated 27.07.2022 has been considered/examined on its merits under rules and found devoid of any merit and as such, is hereby rejected on the above mentioned specific grounds.



**Principal/Dean,
Government Medical College, Srinagar.**



NO:-Legal/MC/ 276-84

Dated: 24 08.2022

Copy for the information to the:-

1. Principal Secretary, Health and Medical Education Department for kind information.
2. Administrator, Government Medical College, Srinagar, for kind information.
3. Medical Superintendent, Super Specialty Hospital, with intimation to provide proper coordination to Eviction officer, for Eviction of the un-authorized occupant at spot and demolition of illegal structure after completion of Eviction procedure which is in under process.
4. Eviction Officer, Government Medical College, Srinagar, for information.
5. Estate Officer, Government Medical College, Srinagar, for information.

6. Mr. Mohammad Raies-U-Din Ganai Deputy Advocate General Hon'ble High Court at Srinagar.
7. Mr. Sheikh Rizwan Javeed Standing Counsel, Government Medical College, at District Court Moominabad Batmaloo Srinagar.
8. IT Section, government Medical College, Srinagar, for uploading the same on website.
9. Mst. Haneefa Shora, for intimation (Applicant/Petitioner).
10. 6. Office Record.