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Government Medical College, Srinagar.

Subject:- Writ Petition WP(C) No.1582/2024 titled Syed Jeelani
Qadri Vs UT of J&K and Ors.

O R D E R NO:- 001 of 2024.

D A T E D:- 14 -10 -2024.

Whereas, the petitioner through the medium of the present writ petition filed under Article 226 of the Constitution of India is seeking the following reliefs:

Mandamus, directing the respondents' particularly respondent no. 3 and 4 to consider the case of the petitioner for rehabilitating the petitioner in the premises of Lalla Ded Hospital by allotting and handing over the possession of the shop to the petitioner as promised by the respondents.

Whereas, the Hon'ble Court was pleased to dispose off the WP(C) 1582/2023 vide order dated 24-07-2024. The Operative portion of the thereof is reproduced as under:

"With the consent of learned counsel appearing for the parties, the present writ petition is taken up for final disposal at this stage. Accordingly, the same is disposed of with a direction to the respondents to treat this writ petition as representation on behalf of the petitioner and to accord consideration by passing a speaking order within a period of four weeks from today strictly in conformity with the rules and as per law and the order of consideration which is likely to be passed be provided to the petitioner by registered post."

Whereas in response to the aforesaid directions of the Hon'ble Court the matter was examined in a threadbare manner and all the coherent facts and circumstances taken into consideration and the material/official record related to the case available in the official file and the following factual/legal position came to force:-

i) Whereas, the plaintiff was running a fair price shop (M/S Cooperative Medical shop) near premises of Lalla Ded Hospital, Srinagar which stands allotted to him in 1998 by the Registrar of Cooperative Societies, J&K vide order dated 08-06-1988 just adjacent to footpath within the premises of Govt. LD Hospital Srinagar and as per the documents enclosed by the petitioner with the petition, last agreement entered between the petitioner and allocating agency as expiring on 28-02-2022.

ii) Whereas, given the fact that the suit property was allotted to the petitioner by the cooperative Society J&K Srinagar/district Wholesale Cooperative Consumer Store Ltd. Srinagar therefore there is no privity of contract between the plaintiff and Govt. Medical College Srinagar/Associated Hospital (Govt. L.D. Hospital Srinagar), meaning thereby, that the Govt. Medical College Srinagar and its Associated Hospital in question is not bound by any agreement that the plaintiff has executed with the Cooperative Society J&K Srinagar Wholesale Cooperative Consumer Store Ltd Srinagar.

iii) Whereas, the suit property was coming in the way of construction work of new 200 bedded hospital viz., Gynecology oncology centre at Government L.D Hospital, Srinagar, which

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construction work is undoubtedly in the public interest. It is settled proposition of law that individual interest or, for that matter, smaller public interest shall prevail over individual interest. In the present case, wider public interest was involved insofar as the construction work of new 200 bedded hospital Viz., Gynecology Oncology Centre at Government L.D Hospital, Srinagar was concerned and, therefore, the plaintiff has to yield place to the larger public interest. Plaintiff is estopped under law to block the public interest for his private interest.

iv) Whereas, a large number of other shops were also coming in the way of construction work of aforesaid 200 bedded hospital that stand demolished. However, the plaintiff was creating impediments in the construction work for his personal interests.

v) Whereas, as far as the rehabilitation of plaintiff in accordance with the law and policy on the subject is concerned, it is noteworthy that there is no such policy in the subject issued by the Government in Health & medical Education Department that provides for rehabilitation of the persons running Fair Price Shops within the premises of Government Medical College, Srinagar, and its Associated Hospital, more so, where the allotment has been made by the cooperative society, J&K, Srinagar/District Wholesale cooperative consumer store Ltd., Srinagar.

vi) Whereas, a matter of fact, the policy issued by the Government in Health & Medical Education Department regarding allotment of sites/structures for use as fair price Medical shops within the premises of, *inter alia*, Government Medical College, Srinagar and its Associated Hospital, notified vide G.O. No. 492-HME of 208 dated 17.06.2008, regulates allotment of fair Medical Shops through proper tendering process, for a specific period, the sites/structures are to be retendered in the same transparent manner. It is apposite to state that there is no provision in the applicable policy, for permanent rehabilitation of allottees.

Whereas, the above named petitioner has earlier approached the Hon'ble District court vide suit no.2237/2020, which has been disposed of vide order dated 06-07-2020, the operative part thereof reads under:


The application for ad-interim relief has also come up today for consideration. It is directed that the defendants/non-applicants shall examine the case of the plaintiff/applicant for his rehabilitation in accordance with rules and policy governing the subject and put up the same before the competent authority within two weeks. Once placed before the competent authority, the same shall be considered in the anvil of the rules and the policy of rehabilitation applicable to the instant case...."

Whereas, in compliance to order dated 06-07-2020 passed by the Hon'ble Court of Principal District Judge, Srinagar in civil suit tilted Syed Jeelani Qadri Vs. UT of J&K and the claim of the plaintiff examine/considered and is rejected being devoid of any merit vide this office order No. 10 of 2022 dated: 13-4-2022 under endorsement No. Legal/MC/07-09 Dated: 13-4-2022.

Whereas, the petitioner has earlier filed writ petition before the Hon'ble High Court of J&K at Srinagar bearing WP© no. 878/2022, which stands disposed of, the operative portion of the order reads as under:

The petitioner is aggrieved and has called in question the show cause notice dated 18th April, 2022, issued by the Estates Officer, Government Medical College, Srinagar, purportedly under section 4(1) of the J&K, public premises (eviction of unauthorized occupants) Act 1988 ["the Act 1988"]. The petitioner claims that he has responded to the

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aforesaid notification and submitted his detailed his reply. The apprehension of the notification and submitted his detailed reply. The apprehension of the petitioner is that the Estates Officer without considering his reply may issue the eviction and thereby taking the petitioner by the surprise and rendering him remediless.


In the given facts and circumstances and having regard to the apprehension voiced by the petitioner, this petition is disposed of by directing the Estates Officer, Government Medical College, Srinagar, to consider the reply submitted by the petitioner to the show cause notice and pass appropriate orders. Needless to say that the petitioner shall be free to challenge the order of the Estates Officer, so passed if it goes against him by way of an appeal under the Act, 1988. Till the final order is passed by the Estates Officer, the petitioner shall not be evicted..."

Whereas, in compliance to the Hon'ble High Court order dated 28-04-2022 passed in WP(c) No. 878/2022 titled Syed Jeelani Qadri Vs. UT of J&K and others and the reply submitted dated 22-04-2022 by the petitioner to this office, pursuant to this office eviction notice under No. Estate/MC/124-28 dated 18-04-2022, the claim of the petitioner is examined/considered and found devoid of any merit and as such is rejected vide this office order No.03 of 2022 dated 07-05-2022 vide endorsement No. Estate/MC/251-56 dated: 07-5-2022.

Whereas, the petitioner had also filed an appeal under section 12 of Public Premises (Eviction of unauthorized occupants Act 1988) against the order passed by the respondent vide order No. Estate/ MC/202-05 dated 27-04-2022. Which has been disposed of vide order dated: 30-08-2022, the operative portion thereof is whereas under:

"In view of the detailed discussion made hereinabove, the appeal in hand is devoid of any merit and deserves dismissal, as such, the same is dismissed. The order dated 23-05-2022 passed by this court in the interim application shall also stands vacated. Ancillary application if any be also dismissed. Ordered accordingly. File shall be consigned to records after its due compilation".

Now therefore in compliance of the Hon'ble High Court order dated: 24-07 2024 in WP(C) 1582/2024 (CM 4269/2022) titled Syed Jeelani Qadri Vs UT of J&K and Ors. and after considering the above facts and circumstances, the claim of the petitioner having been considered is found merit less. Accordingly the claim of the petitioner is rejected.


Principal,
Government Medical College,
Srinagar.

No: Legal/MC/Sgr/ 959-65
Dated: 14 -10-2024

Copy for information and necessary action to the:

1. Divisional Commissioner Kashmir for kind information.
2. Deputy Commissioner Srinagar for kind information.
3. Secretary to Govt. Health and Medical Education Deptt. Civil Secretariat.
4. Medical Superintendent Lal Ded Hospital.
5. Adv. Hakeem Aman Ali.
6. IT Section for uploading on official website.