



Sr. No. . 2026:JKLHC-SGR:15

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) No. 590/2023

Reserved on: 24.12.2025

Pronounced on: 11.02.2026

Uploaded on:11.02.2026

*Whether the operative part or full
judgment is pronounced-**Full Judgment***

Hotel New Metro

.....Petitioner

Through :- Mr. Jahangir Iqbal Ganai, Sr. Advocate
with
Mr. Sohail Mehraj, Advocate.

v/s

UT of J&K & Ors.

.....Respondents

Through :- Mr. Mohsin Qadri, Sr. AAG with
Mr. Illyas Laway, GA.

CORAM: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

01. Petitioner has invoked writ jurisdiction of this Court for the issuance of appropriate writs to the respondents for the clearance of their pending liability towards hiring the petitioner Hotel for protected political persons.

CASE OF THE PETITIONER

02. Case of the petitioner is that pursuant to a circular dated 07.11.2020 and communication dated 12.12.2020 and various communications issued thereafter from time to time by Divisional Commissioner, Kashmir, it was requested to provide accommodation, on sharing basis, to protected persons including Panches, Sarpanches, Municipal Councillors etc., and police personnels/security forces w.e.f. 18.11.2020. Subsequently, the accommodation came to be de-hired by the Divisional Commissioner w.e.f. 05.10.2021, in terms of his order dated



01.10.2021. However, immediately after de-hiring at the Divisional Level, a fresh requisition was made at the District Level by respondent no. 2-Deputy Commissioner, Srinagar, vide his communication dated 27.10.2021, by virtue of which four Hotels, including the Hotel in question, came to be re-hired for accommodating protected persons of District Srinagar including Sarpanches, Councilors, DDC Members, contesting candidates etc. The petitioner raised bills, for the periods Hotel premises came to be hired, first at the Divisional level and later at the District level, however, grievance of the petitioner is that its payment is not being cleared despite the fact that hiring charges were verified and approved by the competent authorities and funds released by the Government.

03. It is further contended that when representative of the Hotel approached the office of Divisional Commissioner, he was informed that based on an ex-parte report of a Committee, amounts of Rs. 51,756/- and Rs. 37,980/- had been approved for payment on account of boarding and lodging charges w.e.f. 06.10.2021 to 31.05.2022.

04. According to the petitioner, the accommodation provided to the protectees at the behest of the Divisional Commissioner, and respondent no. 2-Deputy Commissioner, was being guarded by J&K Police/security forces round the clock and two rooms remained under their continuous occupation for the entire hiring period. According to the petitioner, after the Hotel rooms came to be allocated and provided to the protectees, on the strength of hiring orders issued by competent authorities of the respondents, it is not open for them to rely on an ex parte report of a committee, constituted much after the Hotel came to be de-hired and contend that rooms were not in actual occupation of the



protectees. It is contention of the petitioner that bill verification committee was constituted by the respondents with a view to defeat its legitimate claim.

05. The petitioner for the protection and preservation of its right to hold, the property in the manner provided under law, has invoked writ jurisdiction of this Court, primarily on the ground that bill verification committee constituted by Financial Commissioner (Additional Chief Secretary), Home was a colorable exercise of power with a view to reduce its liability, and that ex parte report of the committee, is violative of principles of natural justice.

06. Petitioner has prayed for the issuance of appropriate writs for the quashment of order dated 05.11.2022, by virtue of which Bill Verification Committee came to be constituted, quashment of report dated 10.02.2023 of the said Committee, and a mandamus to the respondents to clear its pending liability.

COUNTER

07. *Per contra*, respondents though admitted that pursuant to the directions of the Divisional Commissioner, vide No. 361-Div.Com/Estt. of 2021 dated 01.10.2021, respondent no. 2, vide his order dated 27.10.2021, hired the petitioner Hotel, for providing accommodation to political protectees and that it came to be de-hired w.e.f. 01.06.2022, but controverted inflated claim of the petitioner.

08. It is contention of the respondents that for the corresponding period, the petitioner submitted bills to the tune of Rs. 40,74,665/- at the rates of Rs. 356 (boarding) and Rs. 242 (catering) respectively. Bills were submitted to the committee constituted by respondent no. 2 under the chairmanship of SDM (East) vide order dated 05.11.2022, read with order dated 18.01.2023, pursuant to the directions issued by Financial Commissioner (Addl. Chief Secretary),



Home Department, J&K for verification of bills of the hoteliers qua the rentals etc. submitted by various hotels hired for protected persons w.e.f. 05.10.2021. The Committee submitted its report vide letter dated 02.02.2023 and it was submitted to the Divisional Commissioner, vide letter dated 10.02.2023. It is contention of the respondents that bills raised by the petitioner were passed for an amount of Rs. 89,736/-, as per actual occupancy, those were duly authenticated by the committee headed by SDM (East), endorsed by Accounts Officer with the Deputy Commissioner and released in favour of the petitioner through Additional Treasury Tankipora vide Treasury No. 1 dated 27.03.2023. Therefore, according to the respondents, liability towards the petitioner stands cleared in totality.

09. Respondents are affront with the contention that bills raised by the petitioner are not only exaggerated figures but far-fetched from reality. Liability was examined by the committee constituted for the purpose, who recommended payment of Rs. 89,736/-, for the period w.e.f. 05.10.2021 to 31.08.2022 on the analogy adopted in similarly circumstanced hoteliers, hired for similar purpose, as per approved rates of the Estate Department and this amount came to be credited to the petitioner by the office of the Deputy Commissioner, Srinagar. Respondents have prayed for dismissal of the writ petition.

SUPPLEMENTARY AFFIDAVIT

10. The petitioner filed supplementary affidavit to controvert stand of the respondents by contending that since protected persons had already occupied the Hotel, it was for this reason that effect of formal allotment was given retrospective effect, i.e., w.e.f. 15.11.2020. Rates were fixed by the Divisional Commissioner, @ Rs. 356 per day, per room (room rent) and catering @ Rs. 225 per head, per day, during the summer season and Rs. 242 per day, per room



(room rent) and catering @ 216 per head, per day, during winter season. As per the occupation and use of Hotel premises, petitioner from time to time submitted detailed bills indicating the number of persons occupying the premises, the number of days rooms were occupied and the amount claimed as per the rates fixed by the Divisional Commissioner, which were received by the respondents against proper receipt. After bills were submitted, they were processed by accounts section of the office of the Divisional Commissioner.

11. It is contended that calculation was made in two parts, i.e., from 15.11.2020 to 31.03.2021 and thereafter on the basis of revised rates fixed by the Government vide Government Order No. 178-Est of 2022 dated 18.07.2022, in terms whereof, consequent upon approval of the competent authority, sanction was accorded to the enhancement of rent tariff in favour of Estates hired private hotels. The initial rates were also fixed on the analogy of the rates fixed by the Estates Department for the private hotels hired by it.

12. It is further contended that after bills were processed by the accounts section of the office of Divisional Commissioner for the period w.e.f. 15.11.2020 to 31.03.2021, the amount claimed was determined as Rs. 28,70,368/- and after deducting the claim for providing rooms to the Garath (Guard), the amount was reduced to Rs. 22,16,112/ and after further deducting the amount on account of dual accommodation, an amount of Rs. 21,23,774/- was found due. It was decided to release 80% of the rent amount and 50% of catering charges, which came to Rs. 12,90,650/-. After deducting income tax @ 10 % on rent and 2 % on catering and GST @ 2%, a net amount of Rs. 11,90,220/- was directed to be paid to the petitioner, which was duly received by the petitioner. The balance amount, according to the petitioner, for the aforesaid period is Rs. 8,33,124/-



13. Insofar as second part of hiring is concerned, it is contended that for the period w.e.f. 01.04.2021 to 04.10.2021, an amount of Rs. 33,17,104/- was claimed, which was reduced to Rs. 31,24,336/- as per the Estates rates by excluding the amount claimed for providing rooms to the security personnel posted in the Garath (Guard). The amount determined did not include in its entirety the rent claimed for the month of April 2021 amounting to Rs. 1,74,240/-. According to the petitioner, the amount determined by the accounts office of the Divisional Commissioner further reduced an amount of Rs. 1, 47, 568/- on account of dual accommodation, and it was determined that the total amount due to the petitioner was Rs. 29,76, 795/-. According to the petitioner, the official record of the respondents bears testimony to the fact that an amount of Rs. 1, 54, 397/- was due to the petitioner on account of enhancement of rent, but same was not incorporated in the aforesaid amount. The total amount, as such, for this period, according to the petitioner, comes to Rs. 33,05,432/- (29,76,795 + 1,54,397+ 1,74,240). According to the petitioner, an amount of Rs. 10,04,407/-, was directed to be released and after deducting income tax and GST, an amount of Rs. 9,17,393/- was released and paid to the petitioner. Thus, according to the petitioner, out of the total rent determined amounting to Rs. 55,21,544/-, an amount of Rs. 22,95,057/- (12,90,650 + 10,04,407) has been released and the balance amount of Rs. 31,34,159/- remains outstanding.

14. It is further contention of the petitioner that Hotel premises came to be de-hired in terms of communication dated 01.10.2021. w.e.f. 05.10.2021. However, despite said communication, the Hotel continued to remain in occupation of protected persons as issue was related to the security concern of protected persons. On account of withdrawal of static guard, the petitioner immediately filed a representation, whereupon it was directed that the guard



withdrawn from Hotel premises be immediately redeployed. The petitioner has placed on record a copy of the signal/fax message dated 17.10.2021. It is thus contention of the petitioner that as protected persons refused to vacate Hotel premises, a decision was taken by a duly constituted committee to re-hire the premises of the petitioner Hotel vide order dated 27.10.2021 and therefore Hotel rooms remained in continued occupation of protected persons up to 25.10.2022. As per the bills submitted, the petitioner claimed an amount of Rs. 54,15,110/- (including arrears) on account of occupation and use of rooms and catering, but respondents have released only Rs. 89,736/-. The balance amount for the aforesaid period, according to the petitioner, of Rs. 53,25,374/- has been illegally withheld. The total balance amount, therefore, according to the petitioner is Rs. 84,59,523/- (Rs. 8,33,124+Rs. 23,01,025+Rs. 53,25,374).

15. According to the petitioner, after the occupation of Hotel in question by the protected persons and deployment of static guard, petitioner had no direct control over the Hotel premises nor could it put the premises to any other use and even keys of the rooms, according to the petitioner, were in custody of the protected persons.

RESPONSE TO SUPPLEMENTARY AFFIDAVIT

16. Respondent no. 2-Deputy Commissioner, Srinagar responding to the supplementary affidavit of the petitioner, has maintained its stand taken in the counter affidavit that full and final liability of the Government towards petitioner Hotel stands discharged and contended that writ petition is inter alia based on disputed and inflated financial claims. Petitioner has not demonstrated infringement of any fundamental or statutory right warranting interference in writ jurisdiction. It is contended that writ proceedings cannot be invoked for enforcement of contractual or pecuniary disputes requiring determination of



disputed questions of fact, particularly where claims are contested, unaudited and unverified.

17. According to the respondents, present petition is a veiled attempt to seek judicial enforcement of a claim which has already been rejected by a competent fact-finding committee through a transparent and accountable process. The claim being highly inflated and devoid of proper substantiation is an attempt at unjust enrichment and abuse of the judicial process. Therefore, no mandamus can be issued to enforce such a disputed and unverified liability.

18. According to the respondents, petitioner's prayer for quashment of the report of verification committee and associated Government communications is misconceived, as same merely conveys the outcome of a factual verification process carried out to ensure fiscal discipline and rationalised Government expenditure. It is contended that petitioner has failed to produce any evidence of occupancy to justify its claim and that committee's assessment is based on actual records obtained from official sources. It is further contended that petitioner, having accepted the payment of Rs. 89,736/- without demur, is estopped from challenging the committee. Respondents have prayed for dismissal of the writ petition.

19. Heard arguments and perused the file.

20. Learned counsels appearing on rival sides have reiterated their respective stands in their arguments.

ANALYSIS

21. As uncontroverted factual narration of the case, emerging from a perusal of communication dated 12.12.2020 of Divisional Commissioner, Kashmir, annexed with the petition, would unfold 14 Hotels, including the petitioner Hotel came to be hired w.e.f. 18.11.2020, for protected persons, on sharing



basis, including the security forces, who were assigned the duty of providing round the clock security to the said protectees. Subsequently they came to be de-hired by the Divisional Commissioner w.e.f. 05.10.2021, vide his communication dated 01.10.2021. According to the petitioner, a fresh requisition was made at the District Level by respondent no. 2-Deputy Commissioner, Srinagar, vide his communication dated 27.10.2021, by virtue of which four hotels, including the petitioner Hotel, came to be re-hired up to 31.05.2022.

22. In view of the above, claim of the petitioner is comprised of two parts; first, when it came to be hired at the Divisional Level w.e.f. 18.11.2020 to 05.10.2021, and second, when it came to be hired at the District level., w.e.f. 06.10.2021 to 31.05.2022.

23. Pertinently, the petitioner, in the supplementary affidavit, maintained its stand that since protected persons had already occupied the hotel, it was for this reason that effect of formal allotment was given retrospective effect, i.e., w.e.f. 15.11.2020. Interestingly, though respondents have admitted that petitioner Hotel was hired by respondent no. 2 vide his order dated 27.10.2021, pursuant to order dated 01.10.2021 of the Divisional Commissioner, however, neither in the objections nor in response to the supplementary affidavit they have dealt with first claim of the petitioner w.e.f. 18.11.2020 to 05.10.2021.

24. In terms of Order VIII Rule 3 of the Code of Civil Procedure, it is not sufficient for a defendant in his written statement to make a general denial of the grounds alleged by the plaintiff, he is required to specifically deal with each allegation of fact of which he does not admit the truth and it is a settled principle of law of pleadings that if every allegation of fact in the plaint is not denied specifically or by necessary implication, it shall be taken to be an admission in terms



of Rule 5 of Order VIII of the Code. Now, when law relating to admission is examined in the light of Order XII Rule 6 CPC, I need not say anything more than what the legislature has intended in its framework that where admission of fact is made in the pleadings or otherwise, the Court at any stage of the proceedings has the jurisdiction to pass such order or give such judgment as it needs fit, having regard to such admission. It is also settled in law that such admission includes one that can be inferred from facts and circumstances of a case without any dispute, as held by Hon'ble Supreme Court in "**Charanjit Lal Mehra vs. Kamal Saroj Mahajan**"; 2005 (11) SCC 279. It is also settled in law that facts admitted need not be proved in terms of Section 58 of the Evidence Act and a party's admission is substantive evidence *ex proprio vigore*.

25. In the light of afore-stated statutory and crystallized position of law, insofar as first claim of the petitioner, is concerned that pursuant to circular dated 07.11.2020 and communication dated 12.12.2020 issued by Divisional Commissioner, Kashmir, its Hotel came to be hired by the respondents to accommodate protected persons on sharing basis w.e.f. 18.11.2020 to 05.08.2021, same having not been denied by the respondents amounts to admission and petitioner is entitled to the relief prayed for.

SECOND CLAIM

26. Coming to the second claim, the admitted position on record is that Hotel in question came to be hired at the District Level by respondent no. 2-Deputy Commissioner, Srinagar, w.e.f. 05.10.2021 to 31.08.2022. Respondents have contested this claim primarily on the ground that for the corresponding period, bills raised by the petitioner to the tune of Rs. 40,74,665/- were submitted for verification to the Bill Verification Committee, constituted for the purpose by respondent no. 2, vide order dated 05.11.2022, read with order dated 18.01.2023



under the Chairmanship of SDM (East), on the directions of Financial Commissioner (Additional Chief Secretary), Home. The Committee vide letter dated 02.02.2023 submitted its report, and it was submitted to the Divisional Commissioner, vide letter dated 10.02.2023. As per actual occupancy, an amount of Rs. 89,736/- came to be passed, which was endorsed by the Accounts Officer with the Deputy Commissioner, and released in favour of the petitioner. Therefore, according to the respondents, entire liability of the petitioner stands cleared.

27. Petitioner has taken an exception to the stand of the respondents by contending that since protected persons had already occupied the hotel rooms, it was precisely for this reasons that effect of formal allotment was given retrospective effect; w.e.f., 15.11.2020. It is also contended that though petitioner Hotel was de-hired w.e.f 05.10.2021 in terms of communication dated 01.10.2021 of the Divisional Commissioner, the hotel continued to remain in occupation of protected persons due to security concerns. It is averred that when static guard in the petitioner Hotel was withdrawn, petitioner filed a representation, whereupon it was directed that guard withdrawn from the Hotel premises be immediately re-deployed, as evident from the copy of the signal/fax message dated 17.10.2021 placed on record. It is thus contention of the petitioner that as protected persons refused to vacate the hotel, it came to be re-hired after the decision of a duly constituted committee, and therefore, Hotel remained in continued occupation of protected persons.

28. The record bears testimony to the fact that accommodation provided by the petitioner to the protectees at the Divisional or District Level was being guarded by J&K Police (Security Forces) round the clock and two rooms remained under continuous possession of the security forces for the entire hired



period. After accommodation was provided by the petitioner on the strength of various orders issued at the Divisional or District Levels from time to time, petitioner was under an obligation to reserve the required boarding and lodging for the allottees, identified by the respondents, for the said purpose. In the circumstances, there is force in the contention of the petitioner that it is not open to the respondents or their officials to contend that rooms of the petitioner Hotel were not in actual occupation of the protectees, and that too, much after the hotel in question came to be de-hired.

29. Stand of the petitioner that after accommodation was provided, hotel premises were guarded by the security forces round the clock, keys of the rooms remained with the persons occupying the Hotel rooms, and therefore, premises could not be put to any other use by the petitioner, is again not denied by the respondents either in their response to the petition or to the supplementary affidavit. Copy of the fax message placed on record by the petitioner indicates that security guard withdrawn from the Hotel premises were immediately directed to be re-deployed. Respondents have not disputed this fact of the case also. It, therefore, indicates that after the occupation of the petitioner Hotel by the persons, identified by respondents, and deployment of security framework by the UT for the security of the protected persons, petitioner had no direct control over the hotel premises/rooms, which were reserved for their accommodation.

30. The respondents constituted a committee for verification of the bills and the Committee submitted its report vide its letter dated 02.02.2023 i.e. about nine months after the Hotel accommodation came to be de-hired. According to the respondents, the Committee conducted a detailed examination of the occupancy records, hiring orders, official requisitions and related



documentation. However, it nowhere indicates that petitioner, at any point of time, was associated with the verification of bills or was asked to produce evidence of actual occupancy to justify its claim.

31. There is difference between a fact-finding committee and Bill Verification Committee. The fact-finding committee has a different job altogether to perform. It is constituted to investigate, gather evidence and establish the facts surrounding a specific incident. Even a fact-finding committee would ordinarily follow the principles of natural justice. On the other hand, the Committee constituted for the verification of bills would embark upon verifying the authenticity, calculation and validity of bills/invoices or claims presented by a claimant. The job of such Committee is to verify if services were rendered, goods were delivered, calculations made are correct and claims adheres to the policy/contractual norms or not. The claimant, in the circumstances and for the purpose for which the Committee is constituted, is to be accorded a right of hearing to submit explanations during the process of verification of bills, particularly when Committee proposes or intends to reject or reduce the claim. Principle of *Audi alteram partem* applies with full force if the rejection of a bill is based on allegations of fraud or misconduct or that claim is inflated. To ensure procedural fairness, the Committee must provide the claimant an opportunity to produce evidence, explain the discrepancies identified during verification and justify the claim.

32. As stated, the premises in question came to be de-hired by the respondents on 01.06.2022, but Committee was constituted much later on 05.11.2022, and Committee submitted its report three months thereafter on 02.02.2023. There is nothing in the stand of the respondents to indicate that Committee has bothered to verify the record of the petitioner Hotel regarding



actual occupancy of the persons, whose names were provided by them. As stated, since after the Hotel in question came to be hired and re-hired by the respondents, petitioner was obliged not only to provide accommodation to the protected political persons but also reserve the accommodation for the protectees, those were being guarded round the clock by the security forces, there is force in the contention of the respondents that after this arrangement, petitioner was not able to put the Hotel for any other use. The Bill Verification Committee has not verified that whether said accommodation was provided by the petitioner to anybody else during the period, the premises were hired by the respondents at the Divisional or District level. Under these circumstances, it is not open to the respondents, at this length of time, to dispute the claim of the petitioner.

33. For what has been observed and discussed above, present petition is allowed and order dated 05.11.2022, by virtue of which respondents constituted a Committee for verification of Bills and ex-parte report dated 10.02.2023 of the said Committee are quashed. Respondents are directed to liquidate claims of the petitioner within a period of eight weeks from the date a copy of this judgment is made available, failing which they shall be liable to pay interest @ 6% per annum.

34. Disposed of.

(Rajesh Sekhri)
Judge

JAMMU
11.02.2026
Abinash

Whether the judgment is speaking? Yes
Whether the judgment is reportable? Yes