

Government of Jammu and Kashmir
Housing and Urban Development Department
Civil Secretariat, Jammu / Srinagar.

Subject: Accord of sanction for prosecution of in-service accused public servants namely (1) Shri Kousar Ahmad Zargar S/o Abdul Majeed Zargar R/o S.K Colony Anantnag the then Junior Assistant (Establishment Clerk) Municipal Committee, Achabal, Anantnag and (2) Shri Gulzar Ahmad Margay S/o Late Abdul Gani Magray R/o Akad, Anantnag the then Junior Assistant (Dispatch Clerk) Municipal Committee, Achabal for commission of offences punishable under section 5(1) (d) r/w 5(2) of the Prevention of Corruption Act, Samvat, 2006 and section 120-B, 468 and 471 RPC in case FIR No. 28/2014 Police Station, VOK (now ACB).

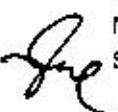
Reference: (i) O.M. No. GAD(Vig)02-SP/2020 dated 24.06.2020 from the General Administration Department.

(ii) Government Order No. 26-JK-GAD(Vig) of 2020 dated 24.06.2020 of General Administration Department

Government Order No. / 83 JK(HUD) of 2020
Dated: 02-12-2020

WHEREAS, the instant case was registered on the basis of verification conducted by Vigilance Organization, Kashmir (now ACB) into the allegations that Shri Imtiyaz Ahmad Dar, the then Executive Officer Municipal Committee, Achabal in furtherance of criminal conspiracy hatched with Shri Kousar Ahmad Zargar, the then Junior Assistant (Establishment Clerk), Shri Gulzar Ahmad Magray, Junior Assistant, the then Dispatch Clerk and the accused beneficiaries have illegally, fraudulently and without competence regularized twelve non deserving CPWs. The accused officers/officials of Municipal Committee, Achabal in January 2012 in order to bestow undue benefits to non deserving beneficiaries violated the service conduct rules, set aside the seniority list and regularized 12 non deserving (CPWs Contingent Paid Workers) and Casual Labourers ignoring the deserving ones, thereby, causing loss of ₹1,86,004/- to the state exchequer by way of drawing salary of 12 illegally regularized beneficiaries during the period 02/12 to 05/12. Accordingly, the instant case was registered against above mentioned accused persons in Police Station, Vigilance Organization, Kashmir (now ACB) and investigation was taken up; and

2. WHEREAS, during the course of investigation conducted by the Investigating Agency, the file pertaining to verification was seized and relevant record was sought from Municipal Committee, Achabal. Some relevant documents including the regularization orders of illegal beneficiaries, receipt and dispatch register, attendance register, nominal roll of officers / officials of M.C, Achabal, suspension order of accused Shri Imtiyaz Ahmad Dar, the then EO MC, Achabal, the details of Grant-in-Aid provided to M.C, Achabal were obtained. The guidelines regarding norms/provisions for regularization of CPW's and casual labours as provided under SRO 64 of Finance Department was obtained from Director, Urban Local Bodies, Kashmir. The illegal regularization orders in respect of 12 non deserving CPWs/Casual Labours issued by accused officer/officials of Municipal Committee, Achabal were also seized by the Investigating Agency. On perusal of said SRO issued by the Government, it was found that the orders of regularization of daily wagers / casual labour / contingent paid works on regular establishment should have been issued by the concerned Head of the Department only; and



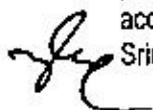
3. WHEREAS, during the course of investigation, it revealed that the then Executive Officer, M.C. Achabal had violated all rules/norms while regularizing 12 daily rated workers illegally. Besides, most of them do not even possess the required qualification as per Schedule 2nd of SRO-64 of Finance Department. The accused Executive Officer in connivance with Shri Kousar Ahmad Zargar the then Junior Assistant (Establishment Clerk) and others regularized 12 daily rated workers (most of them undeserved) illegally and without competence for pecuniary benefits by abuse of their official position. Whereas neither any Screening Committee was physically constituted nor any recommendation list prepared/ submitted by the said Committee thereof. During further investigation, it emerged that Shri Imtiyaz Ahmad Dar, the then Executive Officer, Municipal Committee, Achabal in furtherance of criminal conspiracy hatched with Shri Kousar Ahmad Zargar, the then Junior Assistant (Establishment Clerk) Gulzar Ahmad Magray, Junior Assistant, the then Dispatch Clerk as well as with accused beneficiaries illegally, fraudulently and without competence, regularized 12 non deserving CPWs. During investigation, the statements of some of the witnesses, who were in the seniority list but were ignored were recorded which corroborated that the accused officer/officials of Municipal Committee, Achabal in order to bestow undue benefits to non deserving beneficiaries violated the service conduct rules, set aside the seniority list and have regularized 12 non deserving CPWs (Contingent Paid Workers) and Casual Labourers ignoring the deserving ones in January 2012. The investigation further revealed that one Bashir Ahmad Bhat in league with accused public servants approached others and demanded money for their regularization which subsequently was not paid, as such demand on his part is substantiated; and

4. WHEREAS, during the course of investigation, the culpability of the beneficiaries could not be established, as such they were not arrayed as accused and their statements recorded in terms of section 161 of Cr. PC. During further investigation, it emerged that the regularization orders issued in favour of the daily wagers were cancelled by the then Director, Urban Local Bodies, Kashmir after three months. The disengaged beneficiaries could not take much benefits from said illegal orders as their services were terminated. The salary drawn in favour of these illegal appointees amounting to ₹1,86,004/- for the period 2/2012 to 5/2012 which caused loss to state exchequer; and

5. WHEREAS, during the course of investigation, it emerged that as per the genuineness / provisions the Executive Officers, Municipal Committees were not to competent to regularize any daily wages in any way, as such, the then Executive Officer, MC, Achabal alongwith other accused have issued the said illegal regularization orders in blatant violation of these guidelines. The admitted hand writings / signatures of accused public servants and the illegal regularization orders of beneficiaries were obtained and sent to Forensic Science Laboratory (FSL), Srinagar for comparison and expert opinion. The expert opinion obtained from FSL, Srinagar in this regard was positive. The statements recorded under section 161 Cr.PC during the course of investigation further collaborated the facts emerged during the investigation; and

6. WHEREAS, the investigation conducted by the Investigating Agency established that the public servants in league with each other and with criminal intent abused their official positions, as such, a prima-facie case of criminal conspiracy against the accused public servants for their fraudulent act, is made out; and

7. WHEREAS, the Government after considering the records and material / evidence collected by Investigating Agency during the course of investigation and applying its mind to facts and circumstances of the case is satisfied that prima-facie case for commission of offences punishable u/s 5 (1) (d) r/w 5(2) P.C Act Svt, 2006 and 120-B 468,471 RPC is made out against accused public servants nameiy Shri Imtiyaz Ahmad Dar S/o Ghulam Ahmad Dar R/o Bemina Srinagar the then Executive Officer M C, Achabal Anantnag, Shri Kousar Ahmad Zargar S/o



Abdul Majeed Zargar R/o S.K. Colony Anantnag the then Junior Assistant (Establishment Clerk) M.C Achabl Anantnag and Shri Gulazr Ahmad Magray S/o late Abdul Gani Margay R/o Akad Anantnag, Junior Assistant, the then Dispatch Clerk, M.C Achabal and Bashir Ahmad Bhat S/o Abdul Jabar Bhat R/o Achabal Anantnag the then daily wager M.C. Achabal, Anantnag (now disengaged) for which they should be prosecuted; and

8. WHEREAS, no such prosecution can be launched against an in-service public Servant without prior sanction from the competent authority as envisaged under section 6 of J&K P.C. Act, 2006. However, prosecution in respect of Imtiyaz Ahmad Dar S/o Ghulam Ahmad Dar R/o Bemina Srinagar the then Executive Officer M.C, Achabal, stands issued by the General Administration Department vide Government Order No. 26-JK-GAD(Vig) of 2020 dated 24.06.2020.

9. NOW, THEREFORE, in pursuance of Section 6 of Prevention of Corruption Act, Samvat, 2006, sanction is hereby accorded for prosecution of accused in-service public servants namely (1) Shri Kousar Ahmad Zargar S/o Abdul Majeed Zargar R/o S.K. Colony Anantnag the then Junior Assistant (Establishment Clerk) M.C Achabal Anantnag and (2) Shri Gulzar Ahmad Ahmad Magray S/o late Abdul Gani Margay R/o Akad Anantnag the then Junior Assistant (Dispatch Clerk) Municipal Council, Achabal for commission of offences punishable u/s 5(1) (d) r/w 5(2) of Prevention of Corruption Act, Samvat, 2006 and 120-B 468, 471 RPC in Case FIR No. 28/2014 Police Station, Vigilance Organization, Kashmir (now Anti Corruption Bureau).

By the Order of Government of Jammu & Kashmir.

Sd/-

(Dheeraj Gupta) IAS

Principal Secretary to the Government
Housing & Urban Development Department

No: HUD/RDA/09/2020/Sgr

Dated: 02-12-2020

Copy to the:

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Principal Secretary to Lieutenant Governor.
3. Commissioner / Secretary to Government, General Administration Department.
4. Director, Anti Corruption Bureau, J&K, Jammu.
5. Director, Urban Local Bodies, Kashmir with the advise to initiate RDA against the two accused officials in terms of Rule 33 of the Jammu and Kashmir Civil Services (Classification Appeal and Control) Rules, 1956 prelude to which they may also be placed under suspension, if not already done.
6. Private Secretary to the Chief Secretary.
7. Private Secretary to Principal Secretary to the Government, Housing & Urban Development Department.
8. Concerned.
9. Government Order file (w.2.s.c).
10. Stock file.

(Thannaji Bhat)

Under Secretary to the Government
Housing & Urban Development Department

