



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

Subject:- Initiation of simultaneous departmental action (RDA) against accused public servants namely, (01) Hamid Ahmad Wani, the then Joint Commissioner, Planning, SMC, Srinagar (now Chief Town Planner) in H&UD Department) (02) Farzana Naqashbandi, the then Divisional Town Planner, SDA, Srinagar (now STP in SDA) (03) Feroz Ahmad Mir, the then AEE, J&K Lakes & Waterways Development Authority (now Executive Engineer, LAWDA), in case FIR No. 12/2015 P/S VOK (now ACB), in terms of Jammu and Kashmir Civil Services (Classification, Control & Appeal) Rules, 1956.

Reference: Minutes of the meeting of the Review Committee held under the Chairmanship of the Chief Secretary on 06.02.2023 issued under endorsement No. GAD-VIG0SP/64/2021-09-GAD Dated 02.03.2023, received from General Administration Department.

Government Order No. 116 -JK(HUD) of 2024

Dated: 15 -05-2024

Whereas, the General Administration Department vide Government Order No. 32-JK-GAD(Vig) of 2021 Dated 07.06.2021, among others accorded sanction for prosecution against Sh. Hamid Ahmad Wani, Smt. Farzana Naqashbandi and Sh. Feroz Ahmad Mir; and,

Whereas, the General Administration Department vide communication No. GAD-VIG0SP/33/2021-07 dated 07.06.2021 recommended initiation of simultaneous departmental action (RDA) against the above named accused public servants in terms of provisions contained in Jammu and Kashmir Civil Services (Classification, Control & Appeal) Rules, 1956 and circular instructions notified from time to time; and,

Whereas, vide Government Order No. 99-JK(HUD) of 2021 dated 21.06.2021, all three above accused public servants were placed under suspension; and,

Whereas, meanwhile two of the accused namely (i) Mr. Hamid Ahmad Wani, the then Joint Commissioner, Planning, SMC, Srinagar and (ii) Mrs. Farzana Naqashbandi, the then Divisional Town Planner, SDA, Srinagar, were prematurely retired by the Government vide Government Order No. 362-JK(GAD) of

2022 Dated 31.03.2022 and vide Government Order No. 363-JK(GAD) of 2022 Dated 31.03.2022, respectively in terms of Article 226(2) of the J&K CSRs; and,

Whereas, vide Memo dated 07.06.2022, chargesheet was served upon the in-service co-accused Sh. Feroz Ahmad Mir, the then Assistant Executive Engineer, J&K Lake Conservation Management Authority; and,

Whereas, vide G.O No. 98-JK(HUD) of 2022 dated 01.07.2022, Sh. Naseer Ahmad Kakroo, Chief Engineer, UEED was appointed as Inquiry Officer to enquire into the charges levelled against the accused public servant; and,

Whereas, the Inquiry Officer vide No. CE/UEED/PS/1499 Dated 29.07.2022 submitted the Inquiry Report, contents whereof have been detailed as under:-

- I. *The AEE accepts the fact that he has attended the meeting on the verbal instructions of his Executive Engineer for representing Secretary, LAWDA as a proxy candidate. By this act, he has complied the orders of his superiors and is not a charge against him at all. Also there is nothing on record against the statement of the AEE. Attending BOCA meetings by proxies in place of members is allowed under Article 6(iv) of the Jammu and Kashmir Control of Building Operations (Revised) Regulations, 2001 dated: 24/12/2001, the AEE being of gazetted cadre in the state is permitted.*
- II. *The AEE accepts that he has remained associated with the approval of permission but only to the extent of defending the NOC issued by LAWDA from the point of view of LAWDA'S mandate. In this connection it is to submit that the constitution of BOCA is such that it includes members, drawn from all Departments from whom NOCS are sought, to facilitate decision making in case of any further clarification sought by any member(s) during the course of discussion on any NOC(s) issued by any Department in BOCA meetings. Since all members of BOCA are domain experts in their own fields of activity, are, therefore, responsible for correctness of the decision taken in the committee so far as it relates to their area of activity. The question of joint and several responsibility of members, therefore, in the decision of approval or disapproval does not arise at all. Thus, the charge against the AEE cannot be proved.*
- III. *The AEE signing the memo is in endorsing the decision of the BOCA so far as it relates to the correctness of NOC issued by LAWDA. Had the building permission been issued on the basis of a faulty NOC of LAWDA and/or had the AEE defended the faulty NOC in the meeting of BOCA, he would be charged of*

misleading BOCA for which he would have been responsible; which is not the case. In the instant case, the correctness of NOC issued by LAWDA is not questioned.

- IV. *The responsibility of examining and ensuring conformity of building plans to the Master Plan while approving a building plan in BOCA is mandated to members of SDA and Town Planning Wing of SMC who are experts in the field, the fact acknowledged by the Anti Corruption Bureau in their draft article of charges framed against the Jt. Commissioner (Planning) and the Divisional Town Planner, SDA. The responsibility of the member from LAWDA, who is mostly from administrative services and not supposed to have any expertise in town planning and is incidentally in the instant case represented by the proxy (AEE), lies in examining and ensuring the correctness of NOC issued by LAWDA i.e. the distance of the structure from the nearest water bodies.*
- V. *In the instant case, the building permission has been approved by BOCA on the basis of the NOC issued by SDA ignoring the observations of the Town Planning Section of the SMC. In this connection it is to submit that the correctness or otherwise of the NOC issued by SDA and the observations raised by the Town Planning Section of SMC were to be examined by the domain experts in BOCA. The AEE representing Secretary LAWDA as a proxy, not being the domain expert, the charge against him cannot be proved.*
- VI. *The AEE has not maintained silence but has endorsed the correctness of the NOC issued by LAWDA by pasting his signature on the memo of the agenda.*
- VII. *The reply of the AEE is convincing and the charge leveled against him cannot be defended by the Department. The charges against the AEE are, therefore, recommended to be dropped and the case against him closed.*

Whereas, the case was placed before the Review Committee on 06.02.2023. The Review Committee considered his re-reinstatement and accordingly, vide Government Order No. 49-JK(HUD) of 2023 dated 29.03.2023, Sh. Feroze Ahmad Mir, the then Assistant Executive Engineer, J&K, LAWDA, was re-instated.

Now, therefore, in light of above facts and circumstances, the recommendations of Inquiry Officer are accepted and departmental proceedings initiated against Sh. Feroze Ahmad Mir, the then Assistant Executive Engineer,

J&K LCMA (now retired as Executive Engineer) is hereby concluded, subject to the outcome of writ petitions, if any, pending in any Competent Court of Law.

By Order of Government of Jammu & Kashmir.

Sd/-

(Mandeep Kaur) IAS

Commissioner/ Secretary to the Government

No: HUD-LIT0LWDA/20/2023 (C.No. 7373451)

Dated: 15.05.2024

Copy to the:

1. Financial Commissioner (Additional Chief Secretary), Jal Shakti Department.
2. Joint Secretary (JKL), Ministry of Home Affairs, Government of India.
3. Commissioner/Secretary to the Government, General Administration Department.
4. Director, Anti Corruption Bureau, J&K, Jammu.
5. Vice Chairman, J&K Lake Conservation & Management Authority, Srinagar.
6. Director Archives, Archaeology & Museums, J&K.
7. Concerned Officer.
8. Private Secretary to Commissioner/Secretary to the Government, Housing & Urban Development Department.
9. I/C Website, Housing & Urban Development Department.
10. Government Order file/Stock file.

(Kashif Altaf Bhat) JKAS

Under Secretary to the Government

Kashif
15/05/2024