



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

Subject:- Accord of sanction for prosecution of accused public servant namely Mehraj-ud-Din Buja (Jr. Building Inspector, SMC) S/O Ghulam Qadir Buja R/O Housing Colony, Bemina for commission of offences punishable under section 5(1) (d) r/w 5 (2) J&K P.C. Act Svt. 2006 and Sections 109 & 161 RPC (now section 4 (a) P.C. Act Amendment 2014) in case FIR No. 39/2014 P/S VOK.

**Government Order No. 140 HUD of 2016**

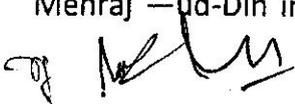
**Dated: 21 .04.2016**

1. Whereas, it is alleged that the instant case was registered in P/S VOK on the basis of a complaint lodged by one Abdul Rehman Reshi S/O Ghulam Ahmed Reshi R/O Mahjoor Nagar Srinagar (President of Al-Qudoos Market Hari Singh High Street Srinagar) against accused public servants for demand of illegal gratification in lieu of draw of shops located at Al-Qudoos Market Srinagar; and
2. Whereas, it is further alleged that the complainant Abdul Rehman Reshi S/O Ghulam Ahmed Reshi R/O Mahjoor Nagar Srinagar lodged a written complaint alleging therein that he is the president of Al-Qudoos Market Hari Singh High Street Srinagar where 32 shops have been allotted by Srinagar Municipal Corporation. However, formal draw of lots has not been conducted by SMC so far, though Hon'ble High Court had directed them to do so. One Head Clerk of SMC namely Mehraj-ud-Din Buja is threatening that shops will be sealed, if they do not pay him a bribe of Rs 2.00 lacs and he has sought first installment of the said amount to the tune of 65,000/- which was settled to be received and paid in this behalf on 29.10.2014. During investigation, it was found that the accused abetted in the offence by one Amir Rashid Bhat (consolidated worker) S/O Abdul Rashid Bhat R/O Umarhair Buchpora Srinagar. Before paying the said amount to the accused, the complainant approached Vigilance Organization Kashmir alongwith the written complaint for taking legal action against the said Government servants under law; and
3. Whereas, it is further alleged that on receipt of the said complaint, the instant case was registered on 29.10.2014 in P/S VOK and investigation was taken up. A team of officers of Vigilance Organization Kashmir headed by Dy.SP Aadil Hussain was constituted to lay a trap. The services of two independent witnesses were also

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sought one from Khadi & Village Industries Board and second from Social Welfare Department to remain associated with the team of Vigilance Organization Kashmir; and

4. Whereas, it is further alleged that during the pre-trap proceedings, the complainant produced Rs. 65,000/- consisting of 26 Indian currency notes of Rs. 1000/- denomination each and 78 notes of Rs. 500/-each, which he intended to pay as illegal gratification to accused on demand. The numbers of these notes were noted by the Independent Witness from Khadi and Village Industries Board. These notes were treated with Phenolphthalein powder by Head Constable Abdul Rashid Khan and then put in the pocket of Coat worn by the complainant through aforesaid Independent Witness. A solution of Sodium Carbonate was prepared in a transparent glass. Firstly, Dy. SP Aadil Hussain dipped fingers of his both hands in this solution of Sodium Carbonate but its colour remained unchanged. Then independent witness dipped fingers of his both hands in the same solution. On his doing so, colour of solution turned pink because he had touched the tainted notes while putting them in the pocket of the complainant. The pink solution was preserved in a bottle and sealed with an adhesive tape. This bottle was marked as "A". Fard Waqa-w-Hawalgi and Fard Muzahira were prepared at P/S VOK. The bottle "A" and Phenolphthalein powder were kept safe in P/S VOK; and
5. Whereas, it is further alleged that after completing the pre-trap proceedings, the trap team alongwith complainant and independent witnesses left to lay the trap. On reaching the main gate of Srinagar Municipal Corporation at Karan Nagar, the complainant contacted the accused Mehraj-ud-Din Buja on phone who told him to wait at the main gate. So the complainant waited for the accused at main-gate of the Corporation whereas the independent witnesses and team members kept watching from some distance. After sometime, the accused Mehraj-ud-Din Buja came out of the main gate with a brown colour file in his hand and met the complainant outside the gate. After chatting for a few minutes, he took the complainant to the nearby restaurant of Hotel Town Centre. In the restaurant accused Mehraj-ud-Din called co-accused Amir Rashid Bhat to the restaurant on his mobile phone. After sometime, accused Amir Rashid Bhat also came out of the main gate and entered the restaurant of Hotel Town Centre. In the restaurant, accused Mehraj-ud-Din received bribe amount of Rs. 65,000/- from the complainant on the brown file and handed over the file alongwith bribe amount to co-accused Amir Rashid Bhat for carrying them to the office chamber of accused Mehraj —ud-Din in SMC Office. Thereafter, all the three came out of the Hotel.



The accused Mehraj-Ud-Din and complainant kept chatting till accused Mehraj-Ud-Din entered the main gate. Then, complainant turned and pointed towards Amir Rashid who was following them. The trap team immediately caught hold of him on the roadside opposite the main gate of SMC office. A solution of Sodium Carbonate was prepared by Head Constable Abdul Rashid Khan. Firstly, Dy. SP Aadil Hussain dipped fingers of his both hands in this solution but its colour remained unchanged. Then co-accused Amir Rashid Bhat dipped fingers of his both hands in the same solution of Sodium Carbonate. On his doing so, the colour of solution turned pink, giving an indication that he has touched the notes treated with Phenolphthalein powder. This pink solution was preserved in another plastic bottle and sealed with an adhesive tape. This bottle was marked as "B". At the instance of the complainant, the bribe amount of Rs.65,000/- was recovered from right outer pocket of the black colour jacket worn by the accused Amir Rashid Bhat. The bribe amount was seized on spot after being identified by the independent witness. Another solution of Sodium Carbonate was prepared by Head Constable Abdul Rashid Khan in which firstly, Dy. SP Aadil Hussain dipped his fingers but its colour did not change. Then above mentioned right outer pocket of the black colour jacket worn by the accused Amir Rashid Bhat was dipped in the same solution. On doing so, the colour of solution turned pink, giving an indication that notes treated with phenolphthalein powder were kept in this pocket. The pink solution was preserved in a separate bottle and sealed with an adhesive tape. This bottle was marked as "C". The jacket was seized and accused Amir Rashid Bhat was taken in custody; and

6. Whereas, it is further alleged that during personal search, among other things like Mobile Phone and Personal Identity Card, the brown colour file carried by accused Mehraj-ud-Din Buja while coming out of the main gate of SMC was recovered from accused Amir Rashid Bhat. On cursory examination, accused Amir Rashid Bhat told that bribe amount of Rs. 65,000/- was not received by him but by accused Mehraj-ud-Din from the complainant on the brown file and Mehraj-ud-Din handed over the file alongwith bribe amount to him for carrying to Mehraj-Ud-Din's office chamber in SMC Office. Immediately, the team rushed in the SMC office complex and caught hold of accused Mehraj-ud-Din Buja and took him in custody. Another solution of Sodium Carbonate was prepared by Head Constable Abdul Rashid Khan in a transparent glass. Firstly, Mushtaq Ahmad, Joint Commissioner (Planning), Srinagar Municipal Corporation dipped the fingers of his both hands in this solution but its colour did not change. Then a small amount of this solution was



dropped on the brown file cover and then poured back into the glass which turned the whole solution of Sodium Carbonate into pink, giving an indication that notes treated with phenolphthalein powder have been kept on this file cover. The pink solution was preserved in a separate bottle and sealed with an adhesive tape. This bottle was marked as "D". During personal search of accused Mehraj-ud-Din, one Mobile phone and key of the vehicle was recovered which were seized. The vehicle Maruti Wagon-R NoJKO1P-2720 was also seized for safe custody. Site plan, Fardat Muzahira, Zabti, Jama Talashi, Giriftari etc. were prepared on spot; and

7. Whereas, it is further alleged that during the course of the investigation, statements of complainant and independent witnesses were got recorded u/s 164-A Cr.P.C. by Learned Sub Registrar Srinagar while as that of all other persons conversant with the facts of the case were recorded u/s 161 Cr.P.C. Statements of officers/officials of Srinagar Municipal Corporation were also recorded u/s 161 Cr.P.C. The witnesses corroborated each other in the material facts of demand and acceptance of bribe by the accused officials of SMC; and
8. Whereas, it is further alleged that during the course of investigation, the files pertaining to the subject matter of the complainant i.e. Al-Qudoos Market Hari Singh High Street Srinagar popularly known as Cheap Market were seized from the Revenue Section of Srinagar Municipal Corporation. It has transpired that accused Mehraj-ud-Din Buja is by designation a "Junior Building Inspector" and was working in the Revenue Section of Srinagar Municipal Corporation as Head Assistant being equivalent in grade. The co-accused Amir Rashid Bhat was consolidated worker and posted in the same Revenue Section of Srinagar Municipal Corporation. The matter of complainant regarding Al-Qudos Market Hari Singh High Street Srinagar popularly known as Cheap Market is pending in the same section for last so many years and the accused Mehraj-ud-Din Buja has been directly dealing with the said matter. As such, he had a definite occasion for demand and acceptance of bribe from the complainant; and
9. Whereas, it is further alleged that during investigation, it was found that the brown colour file on which accused Mehraj-ud-Din received the bribe amount was found to be the wages file of one casual employee of SMC namely Tabassum Nazir D/O Nazir Ahmad Kachroo R/O Sopore, who is a relative of accused Mehraj-ud-Din Buja. The statements of Tabassum Nazir and officials of Bill Section of SMC recorded u/s 161 Cr.P.C. revealed that just few minutes before the occurrence, the accused Mehraj-ud-Din Buja was pursuing the wages claim of his relative in the Bill Section. He had taken the brown colour wages file with him after getting the

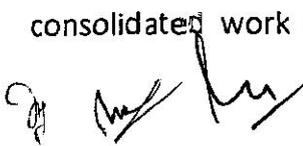
- needful done in the Bill section. The statements clearly linked the brown colour file with the accused Mehraj-ud-Din; and
10. Whereas it is further alleged that during investigation, the four preserved solutions i.e. pre-trap hand wash, post-trap hand wash, post-trap pocket wash and post trap wash of the file were produced before the Executive Maigistrate 1st Class Srinagar and then forwarded to Forensic Science Laboratory Srinagar for Chemical analysis. The report No.FSL/1318-C&T dated 29.12.2014 received from FSL Srinagar confirmed presence of phenolphthalein and sodium carbonate in all the four solutions; and
11. Whereas, it is further alleged that the Call Detail Records (CDR) of mobile numbers found in the use of complainant and two accused at the time of laying of trap were sought from the service providers i.e BSNL and Airtel. The CDR obtained from these service providers have established conversations among the three as under:-
- 94194000146 (accused Mehraj-ud-Din) to 9419479002(Complainant)-28.10.2014 12:35:40 p.m. (16 seconds);
- 94194000146 (accused Mehraj-ud-Din) to 9906789751(Complainant)-28.10.2014 02:09:59 p.m. (183 seconds);
- 94194000146 (accused Mehraj-ud-Din) to 9906789751 (complainant) -28.10.2014 03:44:57 p.m. (20 seconds);
- 9906789751 (complainant) to 94194000146 (accused Mehraj-ud-Din) -28.10.2014 06:36:49 p.m. (95 seconds);
- 9906789751 (complainant) to 94194000146 (accused Mehraj-ud-Din) -29.10.2014 02:20:37p.m. (18 seconds);
- 9906789751 (complainant) to 94194000146 (accused Mehraj-ud-Din) -29.10.2014 03:26:39p.m. (13 seconds);
- 9906789751 (complainant) to 94194000146 (accused Mehraj-ud-Din) -29.10.2014 03:35:46p.m. (03 seconds);
- 94194000146 (accused Mehraj-ud-Din) to 9906594496 (accused Amir, Rashid)-29.10.2014, 03:49:33 p.m. (25 seconds).

The aforementioned conversations have clearly corroborated the facts that emerged during investigation to the extent that on 29.10.2014 (date of occurrence), the complainant called the accused Mehraj-ud-Din Buja on phone, who told him to wait near the main gate and then in the Restaurant accused Mehraj-ud-Din Buja called accused Amir Rashid Bhat on his phone. Moreover, the conversations between the accused Mehraj-ud-Din Buja and the complainant on 28.10.2014 (a day before the date of



occurrence) also corroborate the demand of bribe by the accused from the complainant. The accused Mehraj-ud-Din Buja has called complainant thrice in the afternoon of 28.10.2014, a day before the occurrence which is an important circumstantial evidence to the demand by the accused from the complainant.

12. Whereas, it is further alleged that the investigation has revealed that demand and acceptance of bribe is from accused No.1 namely Mehraj-ud-Din Buja (Head Assistant) but the recovery of bribe amount is from accused No.2 Amir Rashid Bhat. There is no demand or acceptance from accused No.2 namely Amir Rashid Bhat. But he has abetted the commission of said offence. As such, section 109 RPC has been invoked against him, and
13. Whereas, it is further alleged that evidence collected during the investigation is adequate and sufficient for launching prosecution against the accused public servant. Evidence is available in shape of the written complaint of the complainant, the pre-trap memo regarding demanding illegal gratification, post trap memo to prove demand and acceptance of illegal gratification of Rs. 65,000/- by the accused persons from the complainant and recovery of bribe amount from the exclusive possession of the accused No.2. Statements of the complainant, independent witness and team members of trap laying team also prove the documents like written complaint, pre trap and post trap memos, seizure memos etc.; and
14. Whereas, it is further alleged that on the basis of evidence, oral as well as documentary, collected during the course of investigation it has been prima facie established that the accused No.1 Shri Mehraj-ud-Din (Head Assistant) demanded and accepted illegal gratification of Rs. 65,000/- from the complainant namely Abdul Rehman Reshi S/O Ghulam Ahmed Reshi R/O Mahjoor Nagar Srinagar (President of Al-Qudoos Market Hari Singh High Street Srinagar) and has thus committed offences punishable under section 5(1) (d) r/w 5 (2) J&K P.C. Act Svt. 2006 r/w Section 161 RPC (now section 4 (a) P.C. Act Amendment 2014) but the recovery of bribe amount is from accused No.2 Amir Rashid Bhat (Consolidated Worker) S/O Abdul Rashid Bhat RIO Umarhair Buchpora Srinagar has established that he has abetted the commission of said offence, and has committed offence punishable under section 109 RPC r/w section 5(2) J&K P.C. Act Svt. 2006 for which they should be prosecuted; and
15. Whereas, no such prosecution can be sanctioned against Mr. Amir Rashid, consolidated work interms of prevention of corruption Act 2014, having been



engaged on consolidated basis and not existing on the permanent establishment of Srinagar Municipal Corporation.

16. 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.

Now therefore, in pursuance of section 6 of J&K PC Act, 2006, sanction is hereby accorded for prosecution of accused public servant namely Mehraj-ud-Din Buja (Jr. Building Inspector, SMC) S/o Ghulam Qadir Buja R/O Housing Colony, Bemina for commission of offences punishable under section 5(1) (d) r/w 5 (2) J&K P.C. Act Svt. 2006 and Sections 109 & 161 RPC (now section 4 (a) P.C. Act Amendment 2014) in case FIR No. 39/2014 P/S VOK.

**By the order of Government of Jammu and Kashmir.**

**Sd/-  
Commissioner/Secretary to Government  
Housing & Urban Development Department**

**No.: HUD/LSG/SMC/56/2016**

**Dated: 21.04.2016**

Copy for information to the:-

1. Commissioner Secretary to Government, General Administration Department.
2. Commissioner, Srinagar Municipal Corporation.
3. Director, Vigilance Organization, J&K, Jammu
4. Private Secretary to Principal Secretary to Hon'ble Chief Minister.
5. Pvt. Secretary to Chief Secretary, J&K.
6. Pvt. Secretary to Financial Commissioner, Planning & Dev. Department.
7. Pvt. Secretary to Commissioner/Secretary to Government, H&UDD.
8. Government Order File (w.2.s.c).

  
(Nissar Ahmad)  
Under Secretary to Government  
Housing & Urban Development Department  
