

(2025) 12 J&K CK 1711
In the Jammu And Kashmir High Court
Case No : WP(C) No.1787 Of 2022

Residents of Seenthakran

APPELLANT

Vs

Union Territory of Jammu and Kashmir

RESPONDENT

Date of Decision : 19-12-2025

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2025) 12 J&K CK 1711

Hon'ble Judges : Moksha Khajuria Kazmi, J

Bench : Single Bench

Advocate : Rahil Raja, Amit Bhardwaj, Raman Sharma, Chetna Manhas, Pallavi Sharma, Ravinder Gupta, Ankur Sharma

Final Decision : Disposed Of

Judgement

Moksha Khajuria Kazmi, J

1. By this petition, the petitioners have invoked extraordinary writ jurisdiction of this Court vested under Article 226 of the Constitution of India, for commanding the respondents to immediately and forthwith shift the location of Health Sub Centre, Seenthakran, Tehsil and District Udhampur from Ward No.05 (Morha Upper Seeni) to Ward No.07 (Morha Thall) of the said village with a further direction to restrain the respondents from constructing the building of Health Sub-Centre at Ward No.05 of village Seenthakran Tehsil and District Udhampur.

FACTUAL MATRIX

2. The petitioners are the residents of village Seenthakran falling in Tehsil and District Udhampur. It is stated that Village Seenthakran is located 18 kilometer away from Udhampur Town and total population of the village is approximately 5000 souls. Gram Panchayat of village Seenthakran consists of 07 wards. With a view to provide adequate medical facilities to the residents of village Seenthakran, a Health Dispensary was started by the respondents in the year 1989. The said Dispensary was established and started in the year 1989 in Ward

No.07 (Morha Thall) of Panchayat Halqa Seenthakran, which is located in the middle of the said Gram Panchayat, however, due to non-availability of road connectivity to ward No.07 (Morha Thall), Health Dispensary was shifted to Ward No.05 (Morha Upper Seeni), which is located at the boundary of the village Seenthakran. The aforesaid Health Dispensary has been upgraded to Health Sub-Centre. Prior to up-gradation, Health Dispensary and after up-gradation, Health Sub-Centre has been functioning from a rented accommodation in Ward No.05 of the village Seenthakran.

3. It is stated that respondent Nos. 1 to 4 have decided to construct a permanent building for the aforesaid Health Sub Centre and after approval of the proposal, funds also stand sanctioned for construction of the permanent building. The grievance of the petitioner is that despite the fact that all the wards of Panchayat Seenthakran are having road connectivity, new building has been proposed to be constructed in Ward No.5 instead of ward No.7, which is the centre point of Gram Panchayat Seenthakran. It is stated that Ward No.05, where the new building has been proposed to be constructed would not be able to provide easy and convenient access to the residents of majority of wards of Panchayat Seenthakran, because Ward No.05 is located at an edge of the village. According to the petitioner, if the proposed building of Sub Health Centre is constructed in Ward No.5, it would provide medical care and facilities only to two wards i.e. Ward No.5 and 6, whereas the people residing in remaining five wards, which are densely populated, would have to travel three to four times the distance, so as to reach the nearest medical facility

4. The petitioners are stated to have come to know about the proposal of construction of the building of Health Sub Centre in Ward No.5 only after the lockdown/restriction imposed due to COVID-19 were lifted and thereafter they have been repeatedly visiting the office of the respondent Nos. 2 to 4, for shifting the location of the proposed new building to be constructed for housing the Health Sub Centre, Seenthakran. However, without giving any heed towards the request of the petitioners, the respondents have issued e-NIT for construction of the Health Sub Centre in Ward No.5. Faced with this, petitioners along with other inhabitants of the village filed a representation before

respondent No.1, thereby making a request for constructing the proposed building of Health Sub Centre in Ward No.07. Receiving no response, petitioners again approached the respondents for knowing the outcome of their representation, however, neither any information has been provided nor has any direction been issued for putting the execution work on hold, which has compelled them to approach this Court by way of present writ petition.

5. Per contra, claim of the petitioners has been contested by the respondents by filing their reply. In the reply filed by respondent Nos. 1 to 4, it is stated that the Health Sub Centre, Seen Thakran Panchayat Seen Thakkran District Udhampur is presently functioning from a rented building and demand for construction of the government building has been raised repeatedly by the inhabitants of the area

from time to time, accordingly, a piece of state land measuring 2 kanals bearing Khasra No.183 of village Seen Thakran has been identified with consultation of the then elected representatives of the Panchayat.

6. Respondent No.3 also stated to have received a representation from the inhabitants of village Seenthakran, thereby requesting for construction of the building for Health Sub Centre in question on the vacant state land, available in Ward No.5 of the village, whereafter revenue papers have been forwarded to the concerned authorities for approval and placement of indent, so as to get the land transferred in favour of the Health Department. Construction of Health Sub Centre building has been approved and administrative approval accorded at an estimated cost of Rs.77.96 lacs, by the District Development Commissioner, Udhampur vide Order No.DDCU of 2022 dated 22.06.2022. It is contended by the respondents that the proposed location for construction of Health Sub Centre building is almost in middle of the village, as per the map of the revenue authorities and now it is not feasible to shift the location. It is further stated that location for establishment of Medical Sub Centre or other government amenities, to be provided to the inhabitants of a particular area/village, is required to be determined by the authorities after taking into consideration all relevant factors. Respondent No.5 has stated that it is only the executing agency and has no role in the decision for construction of Health Sub Centre building in Ward No.5 of Village Seenthakran of District Udhampur.

7. Learned counsel for the petitioner would argue that Ward No.5 of village Seenthakran is located at the boundary of Gram Panchayat and is at a distance of about six kilometers from the main road, whereas Ward No.7 is centre point of the Panchayat and is located only at a distance of 3 kilometers from the main road, therefore, construction of Health Sub Centre at Ward No.07 would provide easy access to entire population of the area. He would further argue that if construction of the Health Sub Centre building is allowed in Ward No.5, it would serve the interest of only a very small section of population of the village and will deprive the majority of easy and close access to medical facilities.

8. On the contrary, learned counsel appearing for respondent Nos. 1 to 4 argues that the proposed location for construction of building for Health Sub Centre in question is almost at the middle of the village as per the map of the revenue authorities. He further argues that it is not feasible to shift the location for construction of the building for Health Sub Centre, as the present location is centrally located, easily accessible and can cater to the medical needs of whole Panchayat. Relying on an order of this Court passed in OWP No.153/2011(Mohd. Akter and others v. State of J&K and others) decided on 02.07.2019, Mr. Raman Sharma, learned AAG argues that it lies within the domain of the competent authority to decide about the location of Government amenities and none else can ask for a particular amenity at a particular place. Similar are the arguments of Mr. Ankur Sharma, learned counsel appearing for the interveners.

9. Heard learned counsel for the parties and perused the material available on

record.

10. This Court in Mohd. Akhter (supra) has in paragraph No.5 held as under:-

"5. Be that as it may, the fact remains that it is within the domain of the competent authority to decide about the location of Government amenities to be provided to the residents of a particular area. Neither the petitioners nor anybody else can dictate the State to have particular amenity at a particular place. However, while selecting the location for establishment of Medical Sub Center or some other Government amenity, it is the bounden duty of the respondents to take into consideration the convenience and larger benefit of the population of the area for which, such facility is proposed to be provided."

11. It is not in dispute that the choice of location for a government amenity such as a Health Centre lies within the domain of the competent authority. Decisions regarding public infrastructure and resource allocation are policy decisions entrusted to administrative bodies. This means that authorities have the legal competence to decide the site based on planning norms, technical criteria, and policy considerations and no private party has a right to unilaterally dictate the location. However, whenever residents, likely to be affected by such decisions on the ground that the proposed location is not centrally accessible or otherwise inequitable, the principle of administrative fairness requires that any representation they have made be genuinely considered before the final decision is taken.

12. In view of the above, though, the petitioners have no right to ask for establishment/construction of Health Sub Centre at a particular place, however, principle of administrative fairness demands that their representation/objection should be considered before taking any final decision with regard to the construction of Health Sub Centre, Seenthakran, Tehsil and District Udhampur.

13. Accordingly, this writ petition is disposed of with a direction upon respondent Nos. 1 and 2 to consider and decide the representation, stated to have been filed by the petitioners, within a period of two weeks from the date of passing of this order, before taking a final decision with regard to construction of Health Sub Centre building, Seenthakran, Tehsil and District Udhampur, by passing a speaking order thereon.