

**HIGH COURT OF JAMMU AND KASHMIR  
AT JAMMU**

WP (C) PIL No. 14/2020  
(Through Video Conferencing)

Court on its own Motion

...Petitioner(s)

Through:-

v/s

Union Territory of Jammu & Kashmir  
and others

....Respondent(s)

Through:- Mr. Raman Sharma, Sr. AAG  
(Through Video Call)

**Coram: HON'BLE MR. JUSTICE RAJESH BINDAL, JUDGE  
HONBLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

**ORDER**

1. One of us (Rajesh Bindal J.), while dealing with different types of cases assigned in the roaster came across the fact that in number of cases employees approach the court, close to their retirement, seeing benefits of their entire service. Some of them had been under suspension for years together but no charge sheet issued to them or the criminal cases registered against were not taken to logical conclusion. Some of those even were registered with serious offences such as under Prevention of Corruption Act. Information was sought from all the District Courts in the Union Territories of Jammu & Kashmir and Ladakh regarding the FIRs in which no challan has been presented by the investing agency.

2. The information received is astonishing. While taking note of the same, a note was put up before Hon'ble the Chief Justice to take up this matter on judicial side in public interest. It is how the matter is before this Court.
3. We need to seek response from the concerned authorities on the issue as to why investigating agencies are sleeping over investigation of cases with serious allegations.
4. We may briefly notice that as per information received from the Court of Special Judge, Anti-corruption, Jammu, there are FIRs starting from the year 1998 onwards under the Prevention of Corruption Act, where challans have not been presented till date. The allegations are of forgery, bribery, misuse of government money, fictitious withdrawals from treasury, embezzlement of government money, disbursement of loans without proper documents, allotment of works without tendering process, possession of assets disproportionate to known sources of income, fabrication of fictitious bills for purchase of transformers etc. etc. Besides allegations of corruption there are allegations under provisions of penal code also in most of the FIRs. Many of the accused named in the FIRs are government officials. They may be either under suspension or may be getting all benefits despite pendency of criminal cases against them.
5. The number of such FIRs in which challans have not been presented for different years in Anti-corruption Court at Jammu, is as under:

<u>YEARS</u>	<u>NUMBER OF FIRs</u>
1998	09
2000	04
2001	03
2002	04
2003	05
2005	02
2006	01
2007	10
2008	02
2009	05
2010	08
2011	11
2012	22
2013	13
2014	18
2015	30
2016	30
2017	20
2018	29

Information from Srinagar is still awaited.

6. Besides this, in the details of FIRs registered for offences under Ranbir Penal Code at Jammu only, there are cases pending in which challans have not been presented for the last about a decade as the oldest one is pertaining to year 2011. Some of the FIRs pertain to offences for counterfeit currency or under the NDPS Act.

7. Similarly in other districts also there are FIRs registered under RPC or other statutes, in which for more than a decade, challans have not been presented. In some of the FIRs allegations are quite serious.

8. There are time lines provided in CrPC and NDPS Act for presentation of challans, otherwise an accused is entitled to default bail. Any delay by the Investigating Agency in not completing investigation of the cases registered is seriously impacting the justice delivery system as the guilty are not being brought to court for trial even after decades of registration of cases against them. At this stage we don't want to comment on the reasons there for, hence, deem it appropriate to seek response from the concerned authorities in the Union Territory of Jammu & Kashmir for the present.

9. Let notices be issued to the Home Secretary, Secretary Department of General Administration, Government of Jammu and Kashmir, Director General of Police and Director, State Vigilance Bureau, U.T. of J&K.

10. Adjourned to 10.08.2020.

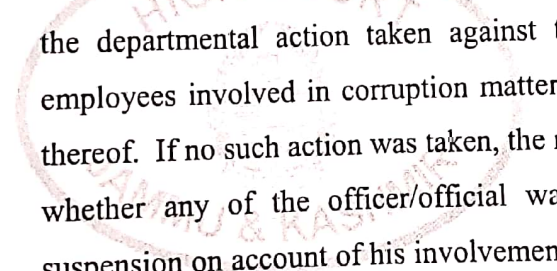
11. Mr. Raman Sharma, learned AAG accepts notice on behalf of the respondent Nos. 1 to 4. It is made clear that only one counsel will represent the Union Territory in this case.

12. While Home Secretary, DGP and Director SVB need to answer the following questions:



- i) Why investigation in these old FIRs with serious offences has not been completed till date and challan presented in court?
- ii) The name of Investigating Officer(s) of the cases be also mentioned.
- iii) The court be also apprised of the present status of investigation, and
- iv) Whether there is any system of monitoring of investigation in the FIRs registered ?
- v) Whether there are any administrative instructions for taking action against the Investigating Officers, if they don't complete investigation within the specified time?

13. The Secretary General Administration Department shall apprise the Court on the following issues, for the present:

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- i) the departmental action taken against the government employees involved in corruption matters and the status thereof. If no such action was taken, the reason there for.
  - ii) whether any of the officer/official was placed under suspension on account of his involvement in a case under PC Act and if yes, for how long?
  - iii) whether employees involved in cases for serious offences were granted further promotions and other benefits and at that stage whether the factum of registration of FIR against them for serious offences was part of the note put up for consideration ?
  - iv) How much of these employees are in service and working at which post and the post on which they were working when the FIR was registered? The court be also apprised of their present place of posting.
  - v) If any of these employees have retired from service, whether retiral dues have been paid to them?

14. For the present information be furnished about the cases registered under the Prevention of Corruption Act.

15. Soft copies of the order and the information which has been received from the Courts below, as briefly referred to above be sent to Mr. Raman Sharma, learned AAG through e-mail by the Registrar Judicial of this Court.

(RAJNESH OSWAL)  
JUDGE

(RAJESH BINDAL)  
JUDGE

Jammu  
21.07.2020  
Paramjeet

