

Serial No. 2
Advance List

IN THE HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

PIL No. 17/2018

Javed Ahmad Tak

---Petitioner/Appellant(s)

Through: Ms. Moksha Kazmi, Adv.

V/s

State of JK & Ors.

---Respondent(s)

Through: Mr. Feroz Ahmad Sheikh, Dy. AG.
Mr. Suhail Rashid, Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RASHID ALI DAR, JUDGE

ORDER

30.07.2019

1. It is necessary to have the Department of Law, Justice and Parliamentary Affairs, Higher Education Department, Technical Education Department, Srinagar Municipal Corporation, IGP Traffic and Transport Commissioner as party respondents in the instant PIL. They are accordingly impleaded as party respondents. The petitioner shall file amended memo of parties within one week.
2. Mr. B.A. Dar, learned Sr. AAG accepts notice for and on behalf of Department of Law, Justice and Parliamentary Affairs, Higher Education Department, Technical Education Department and Transport Commissioner, Mr. Moomin Khan, learned counsel accepts notice on behalf of Srinagar Municipal Corporation.
3. An undated status report has been filed on behalf of Social Welfare Department (page 330). This report does not give dates or on whose behalf it has been filed. The status report sets out two training programmes undertaken at Jammu and Srinagar and nothing more.

4. We have passed detailed directions in this case as back as on 27th November 2018, 19th March 2019, 10th April 2019 & 29th May 2019. The status report does not even advert to the same let alone placed before this Court a proper action plan. In para 5 of the status report, it is loosely stated that directions are awaited from higher authorities.

5. On 13th February 2019, we had noted the information furnished by the Department of Social Welfare that the Government of India had approved release of Rs. 42.74 lacs for creation of a barrier free environment in seven buildings located in the State of Jammu and Kashmir. The respondents had also stated that DPRs of 16 more buildings are stated to have been submitted to the Government of India recently.

6. The respondents are unable to place before us the steps taken for undertaking even a census of persons with disability which we had noted in our order dated 27th November 2018. The first order in this case was passed on 17th September 2018. Ten months have passed since then without the Government having even begun with any measures.

7. With regard to the access audits, time is sought on behalf of Nipman Foundation to place the status report with regard to the access audits undertaken by them in respect of Court complexes in Jammu and Srinagar. Time of four weeks as sought is granted. Let the access audit be placed before this Court within four weeks from today. In case, the action is not taken on the several steps noted by us, we would be constrained to direct the personal appearance of the Secretary, Department of Social Welfare, J&K. Respondents shall also inform this Court as to when the disability training is undertaken in Leh and Kargil.

8. We are informed by Mr. Javed Tak, the petitioner in this case, that no steps have been taken to ensure that public transport is disabled friendly. The respondents are proposing to purchase only 5% low floor buses. This is in violation of the statutory provisions as well as several judicial precedents on this subject.

9. The present case is a fit case for requiring the appearance of Secretary, Department of Social Welfare. At this stage, Mr. Feroz Ahmad Sheikh, learned Dy. AG requests for giving one opportunity to the respondents to place

the steps taken by the respondents as well as the detailed action plan dealing with all issues as noted by us in our previous order. We grant four weeks' time to the respondents to do so.

10. The Srinagar Municipal Corporation and the traffic authorities shall also place before this Court their action plan and steps taken to ensure that the pavements and roads are disable friendly. Mr. Javed Tak points out that the issues relating to disability are not sufficiently addressed in engineering and architectural institutions and that this needs to be made a specific part of curriculum.

11. Let the Secretary of Higher Education and Technical Education Department shall place before this Court the status report regarding the inclusion of courses and subjects relating to the rights and requirement of the disabled in the institutions undertaking education in engineering and architecture courses.

12. A direction is also issued to the Principal Secretary, Department of Law, Justice and Parliamentary Affairs to place a report regarding the notification of the rules under the Rights of Persons with Disability Act 1998.

Let the status reports as above be filed by the next date of hearing.

List on 3rd September 2019.

13. Copy of this order be supplied to learned counsel for the parties under the seal and signatures of Joint Registrar-cum-Bench Secretary.

(RASHID ALI DAR)
JUDGE

(GITA MITTAL)
CHIEF JUSTICE

Srinagar
30.07.2019
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