

S. No. 102
Advance List

IN THE HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

CM No. 2630/2020 in
PIL No. 17/2018

(Through Video Conferencing)

Javed Ahmad Tak

.... Petitioner.

Through: Ms. Moksha Kazmi, Amicus Curaie.

v.

State of J&K and others

.... Respondents

Through: Mr. B. A. Dar, Sr. AAG.
Mr. Sheikh Feroz, Dy. A.G.
Mr. T. M. Shamsi, ASGI, for UT of Ladakh.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE

ORDER
29.09.2020

1. We have heard Ms Moksha Kazmi, Id Amicus Curiae and Id Counsels for the respondents. Unfortunately the Registry has not scanned our last order dated 21.08.2020 passed in this case. The Registry is directed to digitize the same and brought on record.

2. Our order dated 21.08.2020 reads as follows:

"1. Objections have not been filed by the respondents to the application (CM No. 2630/2020) filed in PIL No. 17/2018.

2. The digitized record of the PIL No. 23/2016 Golden Hearts Foundation v. State of J&K and others has been attached and we have perused the same.

3. We find that this writ petition was restricted to the insufficiency of infrastructure in the school for blind in Roop Nagar, Jammu, and sought directions for provision of two schools for blind in all districts of the State of Jammu and Kashmir (Now UT of Jammu and Kashmir and Union Territory of Ladakh) and education facilities and employment opportunities for blind persons.

4. The instant writ petition (PIL No. 17/2018), however, was registered on a representation received from Mr. Javed Ahmad

Tak, regarding difficulties of underprivileged classes especially for persons with disabilities and sought passing of the directions under the “Rights of Persons with Disabilities Act” in para materia with the Central Act. It, inter alia, sought specific relief with regard to education at par with the Central Laws insofar as persons with mental disabilities. Therefore, the scope of the PIL No. 17/2018 is much wider which was listed before this Court and covered all disabilities as that of PIL No. 23/2016 which is pending in Jammu wing of this Court.

5. It is pointed out by Ms. Moksha Kazmi, learned Amicus Curiae, that this aspect has not been noticed by the Court while passing the order dated 17th of March, 2020 and closing of the proceedings in PIL No. 17/2018.

6. In view thereof, let a copy of the order dated 22.11.2018 passed in PIL No. 23/2016 and a copy of this application be served upon the Commissioner / Secretary to Government, Social Welfare Department, Union Territory of Jammu and Kashmir to examine the position and submit a report before this Court before the next date of hearing.

7. The Registry shall ensure compliance with these directions.

8. It is directed that digitized record of PIL No. 23/2016 be kept along for perusal of this Court.

9. List on 29th of September, 2020.”

3. The respondents have failed to file anything before us.

4. It is evident on a comparison of the record of the present case with the record of PIL No. 23/2016, that the scope of the Golden Hertz Foundation matter is extremely restricted and does not address the issues which were under consideration in the present writ petition.

5. In view thereof, there is merit in the contention of the petitioner. This application is allowed. Proceedings in PIL No. 17/2018 are hereby revived.

6. The Registry shall send copies of this order to all learned counsel for the parties.

7. CM No. 2630/2020 is allowed in the above terms.

PIL No. 17/18

8. Perusal of the record shows that our order dated 30.07.2019 has not been complied with. The respondents shall comply with the directions made by this Court.

9. It is noteworthy that this public interest writ petition came to be registered pursuant in September, 2018 premised on a representation dated 18.08.2018 received from the Humanity Welfare Organization through Mr. Javed Ahmad Tak. Thereafter, on 30th of October, 2019 by operation of the Jammu and Kashmir Reorganization Act, 2019, the Union Territories of Jammu & Kashmir and Ladakh stand created. It would be appropriately necessary to amend the array of respondents in the memo of parties which shall read as follows:

- i) *Union Territory of Jammu & Kashmir through
Commissioner / Secretary to Government,
General Administration Department, J&K,
Jammu / Srinagar;*
- ii) *Commissioner / Secretary to Government,
Social Welfare Department, J&K Government,
Srinagar / Jammu;*
- iii) *Union Territory of Ladakh through
Commissioner / Secretary to Government,
General Administration Department, Ladakh,
Ladakh;*
- iv) *Commissioner / Secretary to Government,
Social Welfare Department, Ladakh Government,
Ladakh.*

10. The Registry shall prepare the amended memo of parties and place it on record.

11. Mr. T. M. Shamsi, Id ASGI, who is also Special Counsel for Union Territory of Ladakh accepts notice on their behalf.

12. Let a copy of paper book be furnished by the Registry to Mr. T. M. Shamsi, within three days. Mr. Shamsi shall ensure that a response on behalf of Union Territory of Ladakh on the several issues noted by us in this order and the earlier orders is placed on record.

13. The respondents shall also place a report regarding steps being taken for notifying the rules under the Act in question.

14. It is directed that PIL No. 23/2016 pending in the Jammu Wing shall be taken up for consideration on Video Conference along with the present case, when the present PIL is listed for consideration.

15. The Registry shall ensure that the record of PIL No. 23/2016 is digitized and folders properly bookmarked.

16. The Registry shall send a copy of this order to the Registrar Judicial Jammu Wing to place the same on the PIL no. 23/2016.

17. List the main PIL on 06th of November, 2020 as directed above.

(PUNEET GUPTA) (GITA MITTAL)
JUDGE CHIEF JUSTICE

SRINAGAR

29.09.2020

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