

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

PIL No. 9/2017

Court On Its Own Motion

...Petitioner(s)/appellant(s)

Through: Mr. S.F. Qadiri, Sr. Advocate, with
Ms. Sharaf Wani, Advocate

Vs.

Comm. Secy. Govt. of JK Tourism and Ors

...Respondent(s)

Through: Mr. Syed Musaib, Dy. AG.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER

09.10.2023

1. Heard Mr. Syed Faisal Qadiri, learned *Amicus Curiae* assisted by Ms. Sharaf Wani, learned Advocate and also heard Mr. Syed Musaib, learned Dy. AG., for the respondents.
2. The matter pertains to lack of green space and parks, especially in the cities of Srinagar and Jammu. In this context, reports submitted by the authorities on 03.10.2023 concerning Srinagar and on 03.03.2023 concerning Jammu, highlight the various measures taken to maintain and preserve parks and gardens in and around the city of Srinagar, as well as in Jammu, in response to the orders from the Court. The relevant portion of the report dated 03.10.2023 is quoted below:

“3. Before proceeding further, it is submitted before this Hon'ble Court that the answering respondents have successfully completed the Tulip Show 2022 with the concerted efforts of various wings of administration. The Tulip garden has earned a prestigious spot in the World Book of Records (London). This has been a monumental recognition of the Union territory of Jammu and Kashmir hailing the Tulip garden as Asia's largest tulip paradise, adorned with 1.5 million tulip bulbs. Copy of certificate annexed herewith as R-1.

4. *The answering respondent submits that out of the 04 Mughal Gardens namely Nishat, Shalimar, Cheshmashahi, Pari Mahal, that have been placed in tentative list of UNESCO's World Heritage Sites, a pilot project*

has been undertaken by the department of Floriculture and JSWF (a public charitable trust) wherein a Memorandum of Understanding has been signed on 28/07/2021 for a collaborative partnership for the conservation and maintenance work at the select sites of Shalimar Bagh and Nishat Bagh. The updated status of project commissioned with the JSWF is annexed herewith as R-2.”

3. The relevant portion of the report dated 03.03.2023 in respect of Jammu Division, is reproduced hereunder:

“3. That the Director Floriculture has submitted an action taken report on 10.10.2022 wherein he has submitted that:-

(a) The department is presently maintaining 64 Nos of Parks/Gardens in the Jammu Division having area of 1898.74 Kanals and;

(b) single use plastic and other plastic material is strictly prohibited in all the existing parks & Gardens maintained by the Department & Signage.

(c) All the existing Parks & Gardens maintained by the Department have been provided with Grill fencing so that no vision is obstructed from the outside and;

(d) There is no encroachment in any of the parks/Gardens maintained by the Department as per the report of the field officers. Copy of the report is enclosed by him.

(e) The Toilet facility and Mali sheds have been provided at appropriate places and wherever feasible in major parks & Gardens maintained by the Floriculture Department. Moreover, all the Parks & Gardens maintained by the Department have well constructed pathways.

(f) Department has provided Garden Shredders as well as constructed compost pits in major Parks & Gardens maintained by the Department for disposing of garden waste. Moreover, Department will also install compost plants/pits shortly in the remaining Parks & Gardens for dumping the garden waste.

(g) The ramps for disabled & physically challenged persons wherever required have been constructed in most of the existing Parks & Gardens maintained by the Department. However wing of the Department has also been requested for constructing the ramps for disabled persons in the left out parks also is kept in the Capes Budget of the Department for the year 2022-23. Copy of the report is enclosed as Annexure-B.

4. *That the Sainik Co-operative House building Society Ltd Jammu submitted that vide Government Order No. 27-JK(Flori) of 2020 dated 22.12.2020, The 240 Parks of Housing and Sainik colony were transferred to the Urban Local Bodies copy of the letter alongwith Government Order are enclosed as Annexure-C.*
5. *That the Municipal Corporation Jammu furnish the report on 23.01.2023 in compliance to the Hon'ble High Court directions and instructions issued by the Divisional Commissioner, Jammu as under:*
- a. List of parks is enclosed*
 - b. The directions were passed to the Engineering wing of Jammu Municipal Corporation for construction of Compost Pit in every park and will be done as per the availability of funds.*
 - c. Jammu Municipal Corporation has installed dustbins in most of the parks and process of procurement of dustbins for leftover parks is also going on.*
 - d. The directions were passed to the Engineering wing of Jammu Municipal Corporation for construction of ramps/toilets as well as proper pathways wherever feasible. Also matter taken with Social Welfare Department for identification of suitable Parks for ramps.*
 - e. Notices regarding unauthorized construction if any in parks maintained by JMC have been issued from time to time and timely action is being taken regarding all complaints.*
 - f. Proper Roaster has been prepared by JMC for plantation/ maintenance of all JMC parks. Letters were also written to JDA, J&K Housing Board & Administrator, Sainik Board for proper maintenance of these parks. Copy of the report enclosed as Annexure-D.”*

5. In view of the above, this Court is also satisfied that the authorities are doing the needful for maintenance and preservation of the green space and parks. We are of the view that it may not be necessary for us to monitor the same at this stage and accordingly, the present PIL is closed with the above observations. However, it goes without saying that if the authorities do not continue with or fail to maintain and preserve the green space and parks, liberty is granted to the petitioner for reactivation of the PIL.

(MOKSHA KHAJURIA KAZMI)
JUDGE

(N. KOTISWAR SINGH)
CHIEF JUSTICE

SRINAGAR
09.10.2023
Junaid