

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

**WP(C) PIL no. 4/2020
EMG-CM No.04/2020 &
EMG-CM No.06/2020**
(Through Video Conferencing
from Srinagar Wing)

Azra Ismail

.....Petitioner(s)

Through:- Mr. M. Umar Mir, Advocate
(on voice call from his residence at Srinagar.

Mr. Naveed Bukhtiyar, Advocate
(on Voice call from his residence at Garkote,
Uri)

v/s

Union Territory of Jammu and Kashmir

.... Respondent(s)

Through:- Mr. B. A. Dar, Sr. AAG
(on Voice Call from his residence at
Srinagar).

Mr. T. M. Shamshi, ASGI
(On Video Conferencing from his residence
at Srinagar)

Mr. Shah Amir, AAG
(On Video Conferencing from High
Court at Srinagar)

**WP(C) PIL no. 5/2020
EMG-CM nos. 5, 6, 9-13, 15,
22, 26, 27,31,32,39 & 40/2020**
(Through Video Conferencing
in Jammu)

Court on its Own Motion

Ms. Monika Kohli, Amicus (on Video
Conference from her office at Jammu)

v/s

Union Territory of Jammu and Kashmir

.... Respondent(s)

Through:- Mr. Amit Gupta, AAG (on Video
Conference from his residence at Jammu)

for Govt. of UT of Jammu & Kashmir

Mr. Vishal Sharma, ASGI (on Video Conference from his residence at Jammu) for Union of India.

Mr. S. S. Nanda, Sr. AAG
(On video Conferencing from his residence at Jammu) for JMC.

Mr. Ravinder Gupta, Advocate
(On Video Conferencing from Office of BNSL)
for BSNL.

Mr. Sanjeev Tyagi, Nodal Officer, BSNL
(On Video Conferencing from Office of BNSL)

Mr. Shahzad Azim, Registrar IT (on Video Conferencing from Jammu Wing of High Court)

Mr. M. K. Sharma, Member Secretary
JKSLSA (on Video Conferencing from Jammu Wing of High Court)

HON'BLE THE CHIEF JUSTICE

(on Video Conference from High Court at Jammu)

Coram:

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

(on Video Conference from High Court at Jammu)

ORDER
20.05.2020

III. Ensuring provision of care to dependants/families of healthcare personnel/government personnel/officials engaged in COVID-19 management

01. The Mission Director, ICPS, Social Welfare Department, Jammu had been directed to file a proper report by our order dated 12th May 2020.
02. This has not been done.
03. Time is sought to file the report.
04. Let such report be filed before the next date of hearing.

IV. Removal of Lockdown - desirable public response - provision of information

05. A status report dated 19th May 2020 has been filed by Mr. Atal Dulloo, Financial Commissioner, Health & Medical Education Department placing before this Court that the directions on all issues of COVID-19 are issued by the Central Government, Ministry of Home, Government of India which have been complied with by the Government of Union Territories. It is submitted that pursuant to order passed by this Court, a meeting was held on 15th May 2020, minutes whereof have been placed before us.

06. It is submitted that the matter is still under active consideration and directions are awaited from the Government of India.

07. In view of the fact that the Government of Union Territories is aware of the importance of this issue and has assured this Court in the report filed that all necessary steps as are required, would be taken and guidelines which would be formulated as directed by the Ministry of Home Affairs would be given full publicity, no further intervention by this Court is required in the matter.

08. We close this issue as such.

VII. Addressing issues of Safety, Care, Health and Violence against Healthcare Professionals and Clinical Establishments-Need for a legislative framework

09. A grievance is made by Mr. B. A. Dar, learned Senior Additional Advocate General that he has not received copy of the reports filed on this issue.

Let Registrar Judicial ensure that copies of all the submissions in this issue are made available to Mr. B. A. Dar, Sr. A. A. G. at the earliest.

10. It is submitted by Ms. Monika Kohli, that she has received a request from Mr. Ateeb Kanth, who represented Doctors Association Kashmir that on account of some connectivity issue, he is unable to join today. He also seeks time to file written submissions.

Let the same be filed before the next date of hearing.

11. Mr. Vishal Sharma, ASGI, submits that he has also filed a communication dated 12th May 2020 received by him from Mr. Ashok Kumar Pal, Under Secretary to the Government of India, (Ministry of Home Affairs).

This communication states as follows:

“2. It is stated that while examining the draft Legislation received through Ministry of Health & Family Welfare, titled “Health Service Personnel and Clinical Establishments (Prohibition of violence and damage to property) Act, 2019” to address the issue of assault on health care service personnel and clinical establishments, Ministry of Home Affairs did not support the bill due to following reasons:

“Enacting a separate Legislation for prohibiting violence against doctors and other health care professional would give rise to similar demands from other categories of professionals, viz. Media persons, advocates, bankers, chartered accountants, etc. The State is duty bound to protect life and property of all its citizens including professionals like media persons, doctors, engineers, advocates, bankers, etc.”

12. It would be useful to have report from the Government of India regarding receipt of complaints from any category of professionals (other than the health care service personnel) including media persons, Bankers, Advocates, Chartered Accountants, etc. making a grievance that they were suffering violence and seeking enactment of legislation on the same.

A report in this regard shall be filed by Mr. Vishal Sharma, ASGI before us.

VIII. Issue of impact of pollen from poplar trees

13. It is submitted by Mr. Amit Gupta, AAG that the General Administration Department has taken a view on the report submitted by the Expert Committee and the same stands forwarded to the Department of Law and the Forest Department for compliance.

14. Neither report of Expert Committee nor the decision taken thereon has been placed before us.

15. Mr. Amit Gupta prays for short adjournment to place the same.

16. Let the same be done before next date of hearing.

XVII. e-Connectivity of Courts

17. This issue regarding operationalising e-connectivity of the Courts is extremely serious matter, given the fact that court functioning is completely dependent on the same, especially on account of the COVID-19 issues.

18. As noticed earlier, 84 court locations for e-connectivity stand identified. This matter has been unnecessarily languishing for years and there are more courts in the Union Territories of Jammu and Kashmir as well as Ladakh which are without e-connectivity than those which have been provided the same.

19. A status report dated 19th May 2020 has been filed by Mr. Shahzad Azim, Registrar (IT) confirming that only in 30 court complexes, e-connectivity has been made fully operational/working, that too pursuant to our orders in the present matter.

20. The BSNL is required to operationalise a total 84 court complexes.

21. In report dated 9th May 2020, BSNL has however claimed that 37 sites are working.

22. The BSNL shall examine the report submitted by Mr. Shahzad Azim, Registrar (IT) regarding the non-functionality of 07 sites which have been claimed as operational by the BSNL and a report shall be placed before us before the next date of hearing.

23. We are informed by Mr. Sajeev Tyagi, Nodal Officer, BSNL, that the proposal and work order for 10 sites is awaited from the Ministry of Law and Justice (Department of Justice). It is submitted that the proposal is said to have been submitted a long time ago by the Delhi Office of the BSNL.

24. We are further informed by Mr. Sanjeev Tyagi, Nodal Officer of BSNL that at 22 additional sites, necessary hardware stands installed. However, on account of movement restrictions because of the lockdown, the equipment could not be tested.

25. It is submitted by Mr. Shahzad Azim, Registrar (IT) that he shall ensure that these sites are made available and assist the BSNL in whatever way necessary so that testing can be done at the earliest.

26. We direct Mr. Sanjeev Tyagi to coordinate with Mr. Shahzad Azim and the concerned District Judges to ensure that the requisite installation and testing of 22 sites is completed at the earliest, in any case within two weeks from today.

27. So far as the remaining 15 sites are concerned, it is submitted that the requisite hardware has to be transported from Mumbai and on account of

relaxation in the movement restrictions, efforts are being made to coordinate with the suppliers of the hardware who is based in Mumbai.

28. Mr. Tyagi shall ensure that the needful is completed and an Action Taken Report filed within two weeks from today.

29. It is submitted by Mr. Ravinder Gupta that so far as JMIC Corut in Chenani, Udhampur is concerned, the converter and router got burnt as the AC main supply was extended directly instead of through UPS by the Court authorities.

Let the position be ascertained by Mr. Shahzad Azim, Registrar (IT) and submit a report before this Court before the next date of hearing.

30. In para 10 of his report dated 19th May 2020, Mr. Shahzad Azim has stated as follows:

“10. That BSNL has not made available any escalation matrix for reporting issues with respect to connectivity resultanty, site which are functional on a particular day may be rendered non-functional the other day and the issues remain unresolved for days together.”

31. The BSNL shall examine this serious problem and shall ensure that issue pointed out is resolved and an Action Taken Report is placed before us before the next date.

32. We have noted confirmation regarding operationalisation of only 30 sites because of our intervention in this matter. It appears that the presence of Department of Justice (Ministry of Law and Justice) which is concerned with this issue, is extremely necessary to expedite the completion of this project.

33. We, therefore, direct impleadment of Ministry of Law and Justice (Department of Justice), Government of India through its Secretary as party respondent.

Issue notice to the newly added party.

Mr. Vishal Sharma, learned Assistant Solicitor General of India, Jammu, accepts notice. He shall ensure that the needed examination is expeditiously done and resolution of all difficulties facilitated.

34. A status report shall be filed by Mr. Vishal Sharma, learned ASGI and Mr. Ravinder Gupta, learned CGSC before the next date.

EMG-CM No.9/2020 in WP(C)PIL No.5/2020 (at page-29; filed by Mr. R.D. Singh Bandral, Advocate, regarding plight of cattle and stray animals)

35. A status report has been filed by the SMC through Mr. M. Moumin Khan, Sr. Standing counsel, SMC, Srinagar placing before this court the extensive steps which have been taken in Srinagar.

36. It is heartening to see the steps which have been taken by the SMC to address the difficulties of stray animals including cattle.

37. Report submitted on behalf of the JMC has not been received in this regard.

Let the status report be traced and placed before us before the next date of hearing.

38. Copy of the status reports of the JMC shall be served upon Mr. R. D. S. Bandral, counsel for the applicant.

39. We direct the Union Territory of Ladakh also to place a status report with regard to the steps being taken to ensure the welfare of the stray animals in Ladakh.

A status report shall be filed before the next date.

EMG-CM No.12/2020 in WP(C)PIL No.5/2020 (at page-48, regarding *Municipal Corporations, filed by Mr. Nitin Bakshi, Advocate*)

40. A status report dated 15.05.2020 has been filed by Jammu Municipal Corporation Jammu and another report dated 15 05.2015 has been filed by the Srinagar Municipal corporation.

41. In its report Srinagar Municipal Corporation has submitted that the matter was referred to the Health Officer, SMC who has explained that Malaria, Dengue or Chikungunya are not reported in the Kashmir Division on account of altitude and continental temperature of Kashmir.

In view thereof, nothing is required to be done in Srinagar so far as these diseases are concerned.

42. JMC has submitted that all preventive measures are being taken to combat these diseases within its jurisdiction. Details regarding garbage collection and disposal have also been given. it is stated that JMC has come up with an action plan for controlling such diseases which have been summarized in the report. JMC shall ensure that all steps as placed in the report dated 15.05.2020 are seriously taken.

43. No further orders are called for in this application.

44. The same shall stand disposed of.

EMG-CM No.22/2020 in WP(C)PIL No.5/2020(at Page-60, regarding wastage of food grains in District Doda)

45. Placing reliance on a newspaper 'Daily Excelsior', grievance stands made in this application that while there is dearth of food to the public, food grains are being wasted by the Food, Civil Supplies and Consumer Affairs Department which has wasted quintals of flour in the Doda District.

46. Pursuant to the notice issued by us, a reply dated 19.05.2020 has been filed by the FSC and CA Department.

47. Mr. Amit Gupta, Id AAG draws our attention to the submission made by the Department that certain Atta had been permitted to rot in the Food Store, Dali, Doda. Action has been taken by the respondents and notice dated 18.05.2020 has been issued to the Assistant Director, Doda to furnish the Action Taken Report and to recover the losses from the erring officials. The department has stated that the regular ration distribution is being given to all rationees of the area.

48. The enquiry as ordered shall be completed within two weeks and action taken report be filed before us before the next date of hearing.

List this application on the next date of hearing.

EMG-CM No.31/2020 in WP(C)PIL No.5/2020 (at Page-67, filed by Mr. Rohit Kapoor, Advocate)

49. This application was filed by Mr. Rohit Kapoor seeking this Court's intervention submitting that the inhumane conditions were prevalent in the Oncology wing of Government Medical College, Jammu (GMC, Jammu hereafter). The application is premised on a picture posted on the Facebook account on 30.04.2020 with regard to the cancer treatment in Jammu.

50. We had issued notice on this application, to the Government of Union Territory of Jammu and Kashmir.

51. Pursuant there to, Dr. Naseeb Chand Digra, Principal Government Medical College, Jammu has filed reply dated 18.05.2020.

52. Perusal thereof would show that the authorities are cognizant of the prevailing state of the oncology ward in the GMC, Jammu which is located at the 3rd floor of the Sri Colonel Chopra Wing in the premises of the GMC, Jammu. It has a 25 bedded ward. Its renovation work was underway which got disturbed on account of the current lockdown due to the COVID-19 pandemic. This work has been restored and restarted and would be completed in a phased manner.

53. It is stated that that the pending renovation, temporary arrangements for patient care have been made.

54. Additionally, a new State Cancer Centre is being set up at the Super Specialty Hospital, Jammu. Its construction is in full swing and is likely to be completed in two years time. The State Cancer Institute will have 100 bedded oncology wards and with state of the art facilities for cancer patients like a PET Scan, Modern Linear Accelerators, CT simulators, Bone marrow transplant unit etc.

55. Dr. Digra has submitted that the pictures attached by Mr. Rohit Kapoor, Advocate were taken even before the renovation work.

56. Latest pictures of the work of renovation work and the ward have been annexed, with the report under consideration.

57. In view of the above no order by this Court is warranted.

This application is dismissed.

EMG-CM No.32/2020 in WP(C)PIL No.5/2020 (*cruelty towards animals*)

58. Notice to the respondents.

59. Mr. Amit Gupta, learned Additional Advocate General, accepts notice and Mr.

Let reply be filed before the next date.

60. Copy of this application be served upon learned counsel for the respondents.

61. A status report shall be filed before us on the next date of hearing.

EMG-CM No. 39/2020 in WP(C)PIL No.5/2020 (*regarding Labourers without food*)

62. The *Daily Excelsior* newspaper in its edition dated May 16, 2020, contains a report regarding a labourer Malook Singh who along with his wife, sixty years old father-in-law, 3 year old daughter, and baby son, has travelled on foot from Katra to Reasi.

63. We had been assured by the Government of Union Territory of Jammu and Kashmir that all possible steps are being taken to address the plight of labourers in the Union Territory and for this reason, we had not passed any orders in the matter.

64. This family shall be traced out and their welfare be informed to us before the next date of hearing.

Let a status report shall be filed regarding the plight of this family.

EMG-CM No 40/2020 in WP(C)PIL No.5/2020 (filed by Mr. Sumit Nayyar, Advocate regarding lack of Personal Protective Equipments (PPE) to doctors in Government Hospitals)

65. Notice to the respondents.

66. Mr. Amit Gupta, learned AAG accepts notice and prays for time to file the status report.

67. Same shall be filed before the next date of hearing.

EMG-CM No.41 /2020 in WP(C)PIL No.5/2020 (regarding condition of quarantine centers)

68. Notice to the respondents.

69. Mr. Amit Gupta, learned AAG accepts notice and prays for time to file the status report.

70. Same shall be filed before the next date of hearing.

EMG-CM No.4 /2020 in WP(C)PIL No.4/2020 (filed by Mr. Naveed Bukhtiyar from his residence Garkote, Uri)

71. This application is not available in the record.

72. Mr. Bukhtiyar submits that he shall furnish a fresh copy to Registrar Judicial (Srinagar)

List the matter on 3rd June, 2020.

(RAJNESH OSWAL)
JUDGE

(GITA MITTAL)
CHIEF JUSTICE

Jammu
20.05.2020
Sunita