

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 921 OF 2020

Asim Suhas Sarode

... Petitioner

Versus

Union of India & Ors.

... Respondents

ORDER

- 1 The petition under Article 32 of the Constitution was instituted to seek a direction to the Union Government to set up (i) Human Rights Commission; (ii) State Commission for Protection of Women and Child Rights; (iii) State Commission for Persons with Disabilities; (iv) State Consumer Disputes Redressal Commission; (v) State Information Commission; (vi) State Electricity Regulatory Commission; and (vii) State Accountability Commission for the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh.
- 2 A counter affidavit has been filed in these proceedings by the Secretary to the Government in the Department of Law, Justice and Parliamentary Affairs, Jammu and Kashmir. The seven commissions in question were set up under laws in force in the erstwhile State of Jammu and Kashmir. Details have been furnished in a tabulated statement contained in the affidavit; which reads thus :

S. No.	Commission	Statue
1.	State Human Rights Commission	Jammu and Kashmir Protection of Human

		Rights Act, 1997
2.	State Commission for Protection of Women and Child Rights	Jammu and Kashmir State Commission Protection of Women and Child Rights Act, 2018.
3.	State for Commission for Persons with Disabilities	Jammu and Kashmir Right of Persons with Disability Act, 2018.
4.	State Information Commission	The Jammu and Kashmir Right to Information Act, 2009
5.	State Consumer Disputes Redressal Commission	The Jammu and Kashmir Consumer Protection Act, 1987
6.	State Electricity Regulatory Commission	The Jammu and Kashmir Electricity Act, 2010
7.	State Accountability Commission	The Jammu and Kashmir Accountability Commission Act, 2002

3 It has been submitted that (i) with the passing of the Jammu and Kashmir Reorganisation Act 2019, several central laws which were not applicable to the erstwhile State of Jammu and Kashmir are now applicable to the Union Territory of Jammu and Kashmir; (ii) the Government of the Union Territory of Jammu and Kashmir has been vested with powers to establish Commissions under the laws made applicable to the Union Territory; (iii) on account of it being a Union Territory, in some cases, the Central Government has been vested with powers to establish Commissions or the Central Commission which has already set up under a central legislation is to function as the Commission for the Union Territory. The position, therefore, has been tabulated in the following terms in the counter affidavit :

S. No.	Erstwhile Commission	Present Commission/ present status
1.	State Human Rights Commission.	By virtue of Jammu and Kashmir Reorganization Act, 2019 and Reorganization and Kashmir (Adaptation of Central Laws) Order, 2020, the Protection of Human Rights Act, 1993 [Central Law] has been made applicable to the Union Territory of Jammu and Kashmir and the functions relating to human rights in case of Union territory of Jammu and Kashmir are to be dealt with by the National Human Rights Commission Pertinently, even in respect of Union Territory of Delhi and Union Territory of Ladakh, the functions rights relating to human are dealt with by the National Human Rights Commission in terms of Section 21(8) of the Protection of Human Rights Act, 1994
2.	State Commission for Protection of Women and Child Rights	The President of India vide SO 3754E) dated 29.07.2022 has been pleased to direct that the powers and functions of the State Government under the Commission for Protection of Child Rights Act, 2005 shall, subject to the control of the President and until further orders, be exercised by the Lieutenant Governor of Union Territory of Jammu and Kashmir

		<p>within the Union Territory of Jammu and Kashmir. Accordingly, the Lieutenant Governor Union Territory of Jammu and Kashmir, in exercise of powers conferred upon him under Section 36 of the Commission for the Protection of Child Rights Act, 2005 read with S.O. 3574(E) of 2022 dated 29th of July, 2022 has been pleased to notify Jammu and Kashmir Commission for Protection of Child Right Rules 2022 vide S.O. 542 dated 21.10.2022.</p> <p>The constitution of Jammu and Kashmir Commission for Protection of Child Rights is under process in the Social Welfare Department of the Union Territory of Jammu and Kashmir. The general Administration Department, Jammu and Kashmir, vide Government Order No. 1550-JK(GAD) of 2022 dated 16.12.2022 had constituted the selection committee for making selection to the post of Chairperson and Members of the Jammu and Kashmir Commission for Protection of Child Rights.</p> <p>Further, vide Government Order No 17-JK (SWD) of 2022 dated 08.02.2022, the Jammu and Kashmir Commission for Woman has been constituted and appropriate steps are being</p>
--	--	--

		taken to make the Commission functional.
3.	State Commission for Persons with Disabilities	In exercise of the powers conferred by Section 79(1) of the Rights of Persons with Disabilities Act, 2016 r/w Rule 42(5) of the Jammu and Kashmir Rights of Persons with Disabilities Rules, 2021, the Government of Jammu and Kashmir, vide S.O. 462 dated 28.09.2022, appointed Mr. Mohd. Iqbal Lone as the Commissioner for Persons with Disabilities, Jammu and Kashmir for period of 3 years from the date he assumes office or till he attains the age of sixty five years whichever is earlier. The said Commissioner has assumed office on 29.09.2022.
4.	State Information Commission	By virtue of Jammu and Kashmir Reorganization Act, 2019, the Right to Information Act, 2005 (Central Law) has been made applicable to the Union Territory of Jammu and Kashmir. The Union Territory of Jammu and Kashmir being a Union Territory and not a State, the requirement to establish a State Information Commission under the Right to Information Act, 2005 does not arise. The 2 nd appeals under the Right to Information Act, 2005 in

		<p>respect of Union Territory of Jammu and Kashmir are heard by the Central Information Commission constituted under the Right to Information Act, 2005. As the 2nd appeals in respect of the Union Territory of Jammu and Kashmir are being heard through video conferences, the issues like vagaries of weather, difficult terrain, topographical and geographical conditions, distances etc. do not come in the way of hearing of 2nd appeals by the Central Information Commission. Further, during COVID times, the Central Information Commission had even started hearing 2nd appeals over audio call and also the hearing of appeals/complaints takes place through virtual mode.</p>
5.	State Consumer Disputes Redressal Commission	<p>Department of Consumer Affairs, Government of India, issued notification dated 03.11.2020 providing that the Administrators of the Union Territories shall subject to the control of the President and until further orders, exercise the powers and discharge the functions of the State Government under the Consumer Protection Act 2019.</p> <p>In exercise of the powers conferred by Section 42(1) of the Consumer Protection Act, 2019 the Government</p>

		of Jammu and Kashmir, vide S.O. 176 dated 15.04.2022, has constituted Jammu and Kashmir State Consumer Disputes Redressal Commission in the Union Territory of Jammu and Kashmir.
6.	State Electricity Regulatory Commission	In exercise of the powers conferred by Section 83(5) of the electricity Act, 2003, the Central Government, vide S.O.1984(E) dated 18.06.2020, has constituted Joint Electricity Regulatory Commission for the Union Territories of Jammu & Kashmir and Ladakh.
7.	State Accountability Commission	It is submitted that with the enactment of the Jammu and Kashmir Reorganization Act, 2019, the Jammu and Kashmir Accountability Commission Act, 2002 has been repealed, and the Prevention of Corruption Act, 1988 (Central Law) has been made applicable to the Union Territory of Jammu and Kashmir. For conducting the investigation of cases covered under Prevention of Corruption Act, 1988, the Anti Corruption Bureau, Jammu and Kashmir is in place to investigate all cases relating to bribery and corruption in the Union Territory of Jammu and

		Kashmir. Further, the jurisdiction of Central Vigilance Commission (CVC) has been extended to the Union Territory of Jammu & Kashmir and all the cases pertaining to corruption in Union Territory of Jammu and Kashmir covered under Prevention of Corruption Act, 1988 now fall directly under the purview of Central Vigilance Commission (CVC).
--	--	--

- 5 In view of the above tabulation in the counter affidavit, no further directions are necessary in these proceedings. The proceedings shall accordingly stand disposed of.

- 6 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
July 09, 2024
GKA

ITEM NO.24

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 921/2020

ASIM SUHAS SARODE

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 80921/2020 - EXEMPTION FROM FILING AFFIDAVIT)

Date : 09-07-2024 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Tushar Mehta, Solicitor General
Mr. Rajat Nair, Adv.
Mr. Shailesh Madiyal, Adv.
Mr. Kanu Aggarwal, Adv.
Mr. R Rakesh Sharma, Adv.
Mr. Ts Sabarish, Adv.
Mr. Shreekant Neelappa Terdal, AOR

Mr. Tushar Mehta, Solicitor General
Mr. Rajat Nair, Adv.
Mr. Kanu Agarwal, Adv.
Mr. Shailesh Madiyal, Adv.
Mr. Rakesh Sharma, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Tushar Mehta, Solicitor General
Mr. Pashupathi Nath Razdan, AOR

UPON hearing the counsel the Court made the following
O R D E R

1 The Writ Petition is disposed of in terms of the signed order.

2 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)