

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

WP(C) PIL no. 4/2020
(Through Video Conferencing
from Srinagar Wing)

Azra Usmail

.....Petitioner(s)

Through:- Mr. Faisal Qadri, Adv,
Ph. No.9419018022 (on Voice Call
from his residence at Srinagar)

Mr. Salih Pirzada, Advocate
Ph. No.8493000298
(on Video Vonference from his
residence at Srinagar)

Mr. Shah Faisal, Advocate
Ph. No. 9797867101
(on Video Whatsapp Call from his
residence at Srinagar)

v/s

Union Territory of Jammu and Kashmir

.... Respondent(s)

Through:- Mr. Shah Amir, AAG,
Ph. No. 7006429903 (on Voice Call
from his residence at Srinagar).

WP(C) PIL no. 5/2020
(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,
Mr. Vishal Sharma, ASGI and
Mr. Ravinder Gupta, Advocate.
(on Video Conference from the office
of CGM, BSNL)
Mr. Ashok Kumar Srivastava, CGM,

BSNL (on Video Conference from his office at Jammu).
Mr. K. S. Johal, Sr. Advocate (on Voice Call from his Mob.9419188602)

Mr Shahzad Azim, Registrar IT (on Video Conference from his residence)

Coram:

HON'BLE THE CHIEF JUSTICE (on Video Conference from residence at Jammu)

HON'BLE MS. SINDHU SHARMA (on Video Conference from residence at Jammu)

ORDER

1. This hearing is convened pursuant to our last order dated 24th March 2020. On account of the lockdown, the present hearing is conducted using video-conferencing and voice calls.

2. We have been joined by Ms. Monika Kohli, learned Amicus Curiae and Mr. Ashok Kumar Srivastava, CGM, BNSL on video conference from their respective offices. Mr. Vishal Sharma, ASGI, Mr. Ravinder Gupta, Adv for BSNL and Mr. Amit Gupta, AAG have joined on video conferencing from the BSNL office. Additionally, Mr. Faisal Qadri, advocates for the petitioner in WP(C)PIL No. 4/2020 titled 'Azra Uzmail v. U.T. of Jammu and Kashmir have joined us on voice calls from Srinagar. Mr. Shah Faisal, Advocate has also joined on video conferencing at the High Court while Mr. Salih Pirzada, Adv for petitioner has joined on video conferencing from his residence. Mr. Shah Amir, AAG has joined us on voice call from Srinagar.

3. Mr. Ashok Kumar Srivastava, Chief General Manager, BSNL has informed us that pursuant to our last order, the financial estimate of Rs.33.64 lakhs for provision of the lease line connections to 24 locations of Juvenile Justice Boards and Observation Homes has been submitted to the Mission

Director, ICPS as well as Special Secretary to Social Welfare Department, J&K.

Let the authorities scrutinise the estimates submitted by the BSNL at the earliest and inform the BSNL on the proposal at the earliest.

4. So far as the availability of the connectivity or the net facilities to the court sites within Jammu and Kashmir and any additional courts in Ladakh is concerned, we are informed by Mr. Shahzad Azeem, Registrar (IT) that on account of access to the courts being not available, the verification, as was directed by the last order could not be effected. We are informed that a Core Group consisting of Mr. Azeem, representatives of NIC and BSNL and also the judges concerned, has been constituted. We are assured by Mr. Srivastava that as soon as the functioning in the courts is commenced, the needful will be done and all issues regarding availability of the connectivity to all courts as in UT of Jammu and Kashmir as well as Ladakh would be completed at the earliest.

5. Mr. Amit Gupta, learned AAG informs that in the meantime, back up facilities in the nature of inverters etc. in the JJBs have been provided so that video conferencing on available apparatus can be conducted.

6. Mr. Amit Gupta, learned AAG informs that after the last order, water is being supplied by more than 200 tankers regularly in Jammu and also care is also taken of all the institutions including orphanages, shelter homes, old-age homes, etc. Mr. Gupta submits that a strict vigil is being maintained.

7. Ms. Monika Kohli, learned Amicus Curiae has submitted that there was a report yesterday that because of the sudden lock down about 400 pilgrims from Bihar are stranded at Shri Mata Vaishno Devi Shrine, Katra.

She has submitted that these pilgrims are being asked to vacate their current lodgings and that immediate steps need to be taken in view of current lockdown in the Union Territory.

A direction is issued to the Chief Executive Officer, Shri Mata Vaishno Devi Shrine Board and the Deputy Commissioner, Reasi to ensure that these pilgrims are not asked to vacate their current lodgings and their needs are fully provided for till such time as the lockdown persists. All notifications/directions issued by the Central Government and the Government of the UT of J&K to ensure that there is no dislodging of people from their habitations and also provisions or facilities, are strictly complied with.

8. Mr. Faisal Qadri, Advocate has submitted that he has received information from some doctors who are working at the two hospital facilities in Srinagar wherein quarantining and isolation of suspected/infected Covid-19 patients is being effected. These doctors have complained that the persons who have been isolated are misbehaving and have also resorted to damaging the available facilities. The doctors are apprehensive about their own security at the hands of the persons who have been lodged.

9. There can be no manner of doubt that the safety and security of all health providers which would include not only doctors but also the nurses, the paramedics, mess boys, safai karamcharies as well as administrative staff at all government facilities has to be strictly ensured. Such care and protection has to be provided to all health care givers in all hospitals in the Union Territories of J&K and Ladakh as well.

We therefore direct the Secretary, Department of Health and Medical Education of both the Union Territories together with the IGP, Jammu, IGP, Kashmir and IGP, Ladakh to ensure that complete safety and security is provided to the personnel who are serving at all government facilities.

If necessary, the present security should also be beefed up to ensure that no person is able to leave the medical facility till the period of quarantine/isolation is completed.

10. We reiterate our directions to the authorities to take strict action against the persons who are violating any instruction/any order issued by the Central Government and the UT Government as well as any provision of law especially where their conduct would result in the spread of the COVID-19 infection and endanger lives.

11. Apprehension is also expressed by Mr. Faisal Qadri, Advocate with regard to the security and availability of the basic facilities to the migrant labourers. Both UT governments shall ensure that keeping in view the movement restriction, the same is strictly enforced and that the accommodation, health, care and the needs of the migrant labourers, if not already provided for, are also addressed.

12. So far as the prisons is concerned, Mr. Amit Gupta, learned AAG submits that an advisory has been issued by the DG, Prisons and that full medical and health facilities have been ensured to the prisoners. It has been submitted that on there is seclusion of the prisoners from exposure to the general public, and hence, from the infection is being taken care of.

Mr. Gupta has assured us that every effort to ensure the health and safety of the prisoners in Jammu and Kashmir is being ensured.

13. So far as the UT of Ladakh is concerned, we are informed by Mr. Vishal Sharma, learned ASGI that all necessary notifications and orders under the Epidemic Diseases Act and the National Disaster Management Act have been issued and are being strictly enforced. He submits that all religious institutions have been closed and the persons who are infected are being provided the necessary treatment. All steps for quarantining of the persons who are required to be kept under scrutiny are being effected.

Mr. Vishal Sharma, learned ASGI further submitted that unfortunately he has received no instruction at all from the NIC.

Let a copy of the last order and this order be sent to the State Informatics Officer of the NIC, J&K on e-mail by the Registrar Judicial and also by Mr. Vishal Sharma, ASGI.

14. Four e-mails have been received by the office of the Registrar General. The same have been placed before us. We shall deal with them in seriatim hereafter.

15. The first e-mail is dated 29th March 2020 and has been received by the office of Registrar General from Shri Amzi Arthur John, Advocate who states that he is a treasurer of the Young Lawyers Association. Mr. John has really made several suggestions in the e-mail which actually deserve to be placed before the competent authorities who may take a decision thereon.

We direct the Registrar Judicial to sent a copy of this e-mail to the office of the Divisional Commissioner, Jammu as well as Divisional

Commissioner, Srinagar for consideration and to take a considered view if deemed appropriate take steps for implementation of the suggestions made.

16. An undated e-mail has been received from Shri Mohammad Shaqib Shah, Advocate requesting for publicising certain information as well as provision certain facilities to the health care facilitators. There is substance in the suggestions.

Let this e-mail be forwarded by the Registrar Judicial to the Secretary, Department of Health and Medical Education as well as Secretary, Department of Information and Technology for examining the suggestions made by Mr. Mohammad Shaqib Shah and taking such steps as are deemed fit and to remove deficiencies if any in the existing schemes.

17. The third e-mail is dated 30th March 2020 and has been received from Mr. Karman Singh Johal, Advocate purporting to bring on record the plight of Indian citizen who is student of the New York University, USA, who is stranded alongwith other Indian citizens in USA. Unfortunately, e-mail does not give any detail of the persons on whose behalf it is being sent. However, in an e-mail addressed to the Registrar Judicial, Jammu, the particulars of the person who is stranded is given which are as follows:

*Gurkirat Singh Sekhon, Student of New York University
Student Id-N14325995
Indian Passport No.-K6085316
Residential Address in New York-106-66,
95-Street, Ozone Park, New York, USA
ZIP-11417
Mobile No.+12014551841*

It cannot be denied that Indian citizens, wheresoever located, need to be cared and provided for. Mr. K. S. Johal, Senior Advocate makes a

grievance that the Consulate of India at New York is not assisting the Indian citizens who are stranded in the USA.

In view of the above, a direction is issued to the Secretary, Ministry of External, New Delhi Affairs to look into the matter of the difficulties being faced by the Indian nationals in the USA and to ensure that their essential needs are provided for.

18. The e-mail dated 30th March 2020 has also made a request for evacuation of Indian citizens from the USA.

Let the Ministry of External Affairs look into the aspect of the evacuation of persons who are stranded and need to be evacuated to India.

19. We would expect that these issues would be addressed on priority by the Ministry of External Affairs and appropriate steps as are required to be taken in the prevailing situation at the earliest.

In the meantime, let the Indian Consulate assure every assistance to the Indian nationals who are stranded abroad.

20. An e-mail has been received from the office of Registrar Judicial by Mr. Nitin Bakshi, Advocate complaining of excessive violence by the police and enclosing a video film purported to be of the Jammu area.

It is not possible for us to verify the correctness or the authenticity of the enclosures at this stage and time. However, certainly no excesses or physical violence by the police is permissible or can be countenanced.

21. Let the representation of Mr. Nitin Bakshi and the enclosures thereof be forwarded by the Registrar Judicial to the IGP, Jammu for examination for appropriate action.

A report in this regard be placed by the IGP (Jammu) before us before the next date of hearing. The report be sent by e-mail to the office of the Registrar Judicial, Jammu at the following e-mail id.

soniagupta265@gmail.com.

22. A grievance is also made before us with regard to plight of the residents of the UT of Jammu and Kashmir and Ladakh who are lodged in prisons in other parts of the country.

Ms. Monika Kohli, learned Amicus Curiae as well as Mr. Faisal Qadri, Advocate have expressed deep concern about the safety and well being of these prisoners with regard to care which is required for their care protection from the COVID-19 infection.

We direct the Secretary, of the UT of J&K to ascertain and ensure that well being of all such prisoners.

23. We are also conscious of the order dated 23rd March, 2020 passed by the Supreme Court of India in Suo Moto Writ Petition(C) No. 1/2020 titled RE: CONTAGION OF COVID-19 VIRUS IN PRISONS regarding constitution of the High Powered Committee requiring the examination of the prisoners who are required to be released from prisons. The functioning of this Committee was required to be commenced on priority basis keeping in view the health and safety of the prisoners.

Unfortunately Mr. Amit Gupta, is unable to inform us about the proceedings of this Committee.

24. The High Powered Committee shall ensure that it strictly abides by the directives and mandate of the order of the Supreme Court of India and examines the cases of all prisoners which are to be considered as ordered.

In the meantime, let an interim report regarding the functioning of the Committee be placed before us by the Home Secretary, UT of Jammu and Kashmir before the next date of hearing. The report may be submitted by e-mail as directed above.

25. It appears that misunderstanding the requirement of the lockdown, large number of people are resorting to their usual strolls, loitering and morning walks in local parks etc.

A direction is issued to the law enforcing authorities and park owning authorities (all municipal corporations, development authorities) to prevent access to public parks, etc which are normally used for such purposes by the citizens. The law enforcing agencies shall strictly ensure the lockdown and prevent any kind of activity which could adversely impact social distancing in any manner.

26. Before parting with the order today, this court places on record its deep appreciation of the manner in which the authorities in the Union Territories of Jammu and Kashmir as well as Ladakh are addressing the current crisis. It is noteworthy that not a single complaint on the functioning on any aspect of the situation and the matter has been made by any counsel who are present in these hearings either in Jammu or from Srinagar or elsewhere. All counsels have highly commended the manner in which the crisis is being addressed by the Deputy Commissioners on the ground.

27. We hereby record our appreciation of the handling of this unprecedented and difficult situation of ensuring the lockdown as also the manner in which the whole issue of containment of the spread of COVID-19 infection and its treatment is being addressed by the administrations.

28. List on 03rd April 2020 at 11.00 a.m.
29. Let a copy of this order be sent to the Chief Secretaries of the UTs of Jammu and Kashmir and Ladakh.
30. Mr. Vishal Sharma, ASGI assures us that the directions shall be conveyed to the Secretary, Ministry of External Affairs, for compliance.

(SINDHU SHARMA)
JUDGE

(GITA MITTAL)
CHIEF JUSTICE

Jammu
30.03.2020
Raj Kumar

