

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

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

Azra Usmail

...Petitioner (s)

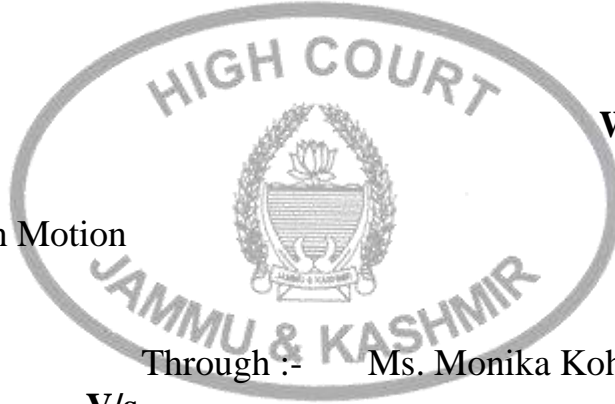
Through :- Mr. Shah Faesal, Advocate vice
Mr. Salih Pirzada, Advocate.

V/s

Union Territory of Jammu and Kashmir

.....Respondent(s)

Through :-Mr. Shah Aamir, A.A.G.



WP(C) PIL No.5/2020

Court on its Own Motion

...Petitioner (s)

Through :- Ms. Monika Kohli, Amicus Curiae

V/s

Union Territory of Jammu and Kashmir and others

.....Respondent(s)

Through :- Mr. Amit Gupta AAG.
Mr. Vishal Sharma, ASGI.
Mr. Ravinder Gupta, Advocate.

HON'BLE THE CHIEF JUSTICE

Coram:

HON'BLE MS. JUSTICE SINDHU SHARMA, JUDGE

ORDER

1. Pursuant to our last order, Mr. Ashok Kumar Srivastava, Chief General Manager, BSNL J&K Telecom Circle, Jammu-12 is present in Court.

2. Mr. Ravinder Gupta, learned counsel handed over a Compliance Report dated 24th March, 2020, which is taken on record. Let the same be numbered. In the report, we find that according to the BSNL, provision of video-conferencing through lease lines between the two Juvenile Justice Boards is the optimal solution. On this aspect, for want of approval of the financial estimates conveyed to the ICPS, this matter was not proceeded with further. As per the report submitted by the BSNL, the estimates were conveyed to the Social Welfare Department vide communication dated 15th November, 2018. It cannot be denied that the BSNL would be the expert agency, whose opinion would bind the consideration by the authorities. It is also common knowledge that dependence on broadband connectivity for video-conferencing is not an optimal solution and the same is often jeopardised on account of connectivity issues.

3. It is stated in the report that the Social Welfare Department, J&K has adopted the lesser potential media, stating as follows:-

“ It is respectfully submitted that the Social Welfare Department J&K Govt. opted for less potential media i.e., Broadband connectivity, which being a shared media through LAN (Local Area Network) / WiFi connectivity might not support the high density Video conferencing. Such constraints were brought to the notice of the concerned authorities in the joint meetings held time & again.”

4. There can be no manner of doubt that the Social Welfare Department has to ensure lease line connectivity between the Observation Homes and the Juvenile Justice Boards at the earliest.

5. We are informed by Mr. Ashok Kumar Srivastava that he would have the estimate which was submitted on 15th November, 2018, re-examined

and submit the fresh estimates to the Mission Director, ICPS within two days from today.

Let the same be so done. The same would be examined at the earliest.

6. We also find that there may be difficulty in the installation of the lease lines so far as Juvenile Justice Boards are concerned for the reason that they are presently housed in rented accommodation. These are institutions which need to have permanent location. A direction is issued to the ICPS to examine the issue with regard to making available the permanent accommodation for Juvenile Justice Boards.

Status report on this aspect shall also be placed before us.

7. In the meantime, the ICPS shall ensure sufficient power back-up at the existing Juvenile Justice Boards as well as Observation Homes, so that the temporary availability of the video-conferencing through the broadband which has been made available, is properly operationalized.

8. Given the necessity of enforcing social distancing and prevention/minimization of close contact between people, in order to contain the spread of the COVID-19 pandemic, several steps stand initiated in the Courts amongst which, conducting of remand work of prisoners through video-conferencing is receiving priority. In view thereof, by our order dated 20th March, 2020, we had called upon the BSNL also to inform us with regard to the status report regarding the connectivity between the Courts and prisons.

9. In the status report, which has been filed by Mr. Ashok Kumar Srivastava, it is reported as follows:-

“It is respectfully submitted that the Department of Justice, Govt. of India has identified 84 locations of various Courts within J&K

State for MPLS (Multi Port Label Switching) connectivity of 10/100 Mbps. Status of which is as under:

- 1. Number of sites commissioned till dated = 58*
- 2. Number of sites under commissioning = 16*
- 3. Number of sites proposed on VSAT for which firm demand is awaited from Department of Justice = 10*

It is pertinent to mention here that the OFC laying work for connecting 16 left out sites has been completed last week i.e., 18.03.2020.”

10. In order to ascertain the correctness of the above, we have requested Mr. Shahzad Azeem, Registrar IT and Mr. Umesh Sharma, Sub-Judge, LRP to assist this Court. We are informed by Mr. Azeem that this is not correct position. According to Mr. Azeem, out of 84 sites only 20 sites, have been made functional. Even from these 20 sites, it is not possible to upload orders on the NJDJ or push SMS messages. Mr. Azeem informs that this was supposed to be carried out by BSNL in collaboration with NIC which is yet not completed.

This is a hopeless situation.

11. We direct the BSNL to ensure that its claim of having commissioned the sites is verified. Every effort shall be made to operationalize the facilities in all the Courts within the Union Territories of Jammu and Kashmir as well as Ladakh at the earliest possible. We also direct Mr. Ashok Kumar Srivastava to appoint a nodal officer not below the rank of Deputy General Manager, whose responsibility it will be to coordinate with Mr. Shahzad Azeem and NIC and ensure that all the sites are operationalized.

12. We would have taken a serious view of the incorrect information which has been furnished to us in the Compliance Report dated 24th March, 2020, which has been filed by the Chief General Manager, BSNL. It is only in

keeping with the current emergent situation, that we are refraining from doing so and giving one opportunity to complete the task. We expect the BSNL to apply itself to the issues in all earnestness and ensure the connectivity at the earliest.

13. We have directed Mr. Shahzad Azeem to hand over the list of 84 sites and their present status. The same has been received by Mr. Ashok Kumar Srivastava who shall examine the same and take urgent steps in the matter.

14. We have also examined the Status Report dated 24th March, 2020 from the department of Social Welfare Department, which it has been submitted by Mr. Shailendra Kumar, Principal Secretary to Government, Social Welfare Department. We are informed that Committees have been constituted at the administrative level and steps taken for regular observation and monitoring of Old Age Homes, Observation Homes, Nari Niketan, Bal Ashram, Orphanage, Blind schools and other such institutions.

15. The Department of Social Welfare shall continue to ensure that the best possible care is given to all these institutions as well.

16. As informed in the status report of the Social Welfare Department, urgent steps be taken to obtain the protective gear for all the workers who are involved in the various activities of the department.

17. A Status report dated 24th March, 2020 has also been received from Mr. Atal Dulloo, Financial Commissioner, Health and Medical Education Department as well, placing on record several steps which are under way to address the spread of the infection in the Union Territory.

18. We are informed that steps with regard to slums are being taken. Time is sought by Mr. Amit Gupta, learned AAG to file status report specifically addressing the needs of the slums and homeless people.

19. Mr. Amit Gupta, learned AAG also submits that the report on behalf of the Director General (Prisons) is ready and shall be filed within three days.

Let the same be so done.

20. Appearing for the Union Territories of Ladakh, Mr. Vishal Sharma, learned ASGI has sought leave to place the report which has been received by him on e-mail before us. Let the same be indexed and paginated and filed before us.

21. We have been informed that all necessary orders have been issued for prevention of spread of COVIT-19 in the Union Territory of Ladakh. No commercial flight landing at the KBR Airport is permitted to bring in any inbound passenger to Leh, other than residents of Ladakh, civilian officers and officers of the Union Forces serving in Ladakha or on duty in Ladakh.

22. It is submitted by Mr. Vishal Sharma that all necessary steps for ensuring social distancing in all institutions including religious places as monasteries etc. stand taken.

Let this report be brought on record.

23. Ms. Monika Kohli, learned Amicus Curiae has submitted that there is dire need of continuous availability of water in order to ensure the hygiene which is required for prevention of the infection during the quarantine.

24. Ms Kohli points out that the Public Health Engineering Department is responsible for the maintenance of the roster for water supplies

in Union Territory. She submitted that this roster is extremely unequal and disproportionate to the requirement of the colonies and requires to be rationalized.

We direct the Secretary of the PHE to look into the water supply roster and ensure an equitable distribution of water to all residents of the Union Territory of Jammu and Kashmir. Similar examination may be undertaken in the Union Territory of Ladakh as well.

25. Judicial notice can be taken of the several complaints being made in the electronic and the print media with regard to persons who are concealing their foreign travel history, even though they are required to disclose their travel history, in order to escape the mandatory quarantine. Some of such persons have been found to be infected and huge public resources have been expended on tracking, not only these persons, but their several contacts during the period upto their detection.

26. We direct the authorities of the Union Territories of Jammu and Kashmir as well as Ladakh to enforce their notifications/instructions/orders regarding all disclosures including the travel history; quarantining and isolation stringently. All authorities of the Union Territories shall take strict measures to ensure that all requirements are strictly enforced.

27. Violation of any Government notification or breach thereof should be strictly punished in accordance with law.

28. Keeping in view the issues regarding Courts, JJBs and Observation Homes which are under consideration, we direct that the presence of State Informatics Officer of the NIC, Jammu and Kashmir to remain present in Court on the next date.

29. Mr. Ashok Kumar Srivastava, Chief General Manager, BSNL shall remain present on the next date as well.

30. List on 30th March, 2020. To be taken up on 11:00 am.

31. Let a copy of the order be given to Ms. Monika Kohli, Amicus Curiae and all counsels in the matter under the seal and signatures of Joint Registrar-cum-Bench Secretary of this Court to ensure compliance.

(SINDHU SHARMA) (GITA MITTAL)
JUDGE CHIEF JUSTICE

Jammu
24.03.2020
Pawan Angotra

