

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

**Case:- WP(C) No. 880/2022**

Ashwani Sharma and others

....Petitioners

Through: Mr. Sunil Sethi, Sr. Advocate with  
Mr. Mohsin Bhat, Advocate

**Vs**

Union of India and others

..... Respondents

Through: Mr. R. S. Jamwal, AAG  
Mr. Irfaan Khan, Advocate

---

**Case:- WP(C) No. 1439/2022**

Ashwani Sharma and others

....Petitioners

Through: Mr. Sunil Sethi, Sr. Advocate with  
Mr. Mohsin Bhat, Advocate

**Vs**

Union of India and others

..... Respondents

Through: Mr. R. S. Jamwal, AAG  
Mr. Irfaan Khan, Advocate

---

**Case:- CCP(S) No. 288/2022**

Ashwani Sharma and others

....Petitioners

Through: Mr. Sunil Sethi, Sr. Advocate with  
Mr. Mohsin Bhat, Advocate

**Vs**

Sh. Arun Kumar Mehta and others

..... Respondents

Through: Mr. R. S. Jamwal, AAG  
Mr. Irfaan Khan, Advocate

---

**Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**

**ORDER**  
**24.06.2024**

**WP(C) No. 880/2022 & WP(C) No. 1439/2022**

**01.** In taking upon the adjudication of these twin like writ petitions, this Court comes to find itself in a whirlpool like situation caused by misconceived understanding at the end of both sides in particular at the end of the Govt. of now UT of Jammu & Kashmir and its concerned officials, with respect to the very composition and working of Watershed Development Component of Pradhan Mantri Krishi Sinchayee Yojana 2.0 (WDC-PMKSY 2.0) thereby making this Court to self tax itself to figure out from the documents on record and of its own research the true state of facts attending WDC-PMKSY 2.0, as this understanding is indispensable in dealing with the subject matter of the two writ petitions.

**02.** Watershed is defined as hydro-geological unit of area from which rain water drains through a single outlet. Watershed development refers to the conservation, regeneration and

judicious use of all the natural resources like, water, land, plants and animals by human beings. Watershed provides a nature geo-hydrological unit for planning development initiative. The original concept of Watershed Management focused on management of resources in medium and large river valleys.

**03.** The Govt. of India had launched Watershed Programme in 1983-84 on a large-scale to conserve and utilize the natural resources for higher productivity of crops and more income/employment generation in addition to creating better climatic conditions. Watershed Development Projects have been taken up under different programmes from the Govt. of India's end implemented in the chosen States of India.

**04.** In 1989, the Govt. of India came to initiate an Integrated Waste Land Development (IWDP) which was taken up by the Waste Land Development Board, Govt. of India.

**05.** In 1984, guidelines came to be issued on Watershed Development by the Ministry of Rural Areas & Employment, Govt. of India which included matter of allocation of funds for implementation of Watershed Programmes in the identified districts in India.

**06.** Under 1994 guidelines, Watershed Development Programmes were given implementation under Drought Prone

Areas Programme (DPAP), Desert Development Programme (DDP) and Integrated Watershed Development Programme (IWDP).

**07.** In order to make a quality improvement in the implementation of Watershed Programmes then in currency, a Govt. of India setup Hanumantha Rao Committee had come up with the recommendations for revised guidelines. The Govt. of India, thus, issued “Common Guidelines for Watershed Development Projects” in the year 2008.

**08.** In the year 2009-10, the Ministry of Rural Development (MoRD), Govt. of India came up with a launch of number of flagship programmes one of which was “Integrated Watershed Management Programme” (IWMP). In the context of the then State of Jammu & Kashmir the implementation of Integrated Watershed Development Programme (IWMP) came to take place in the year 2011-12.

**09.** Implementation of Integrated Watershed Management Programme (IWMP) was assigned to the Department of Land Resources (DoLR), Govt. of India which came into being in April 1999 upon change of name of the Department of Wastes Land Development.

**10.** The Integrated Watershed Management Programme (IWMP), in fact, came to have in it three area development programmes, namely, DDP, DPAP & IWDP. The Integrated

Watershed Programme (IWMP) is for development of rained and degraded land in the country.

**11.** The 2008 framed “Common Guidelines for Watershed Development Projects – 2009” came to be revised in 2011 to serve Integrated Watershed Management Programme (IWMP). These 2008 revised guidelines are to be referred herein in short as Revised Guidelines 2011.

**12.** In the context of the present case, the Revised Guidelines 2011 are relevant to be referred as the same is forming part of the documents on the record of the two writ petitions and it is out of the said guidelines that the petitioners’ engagement came to be born out.

**13.** Pradhan Mantri Krishi Sinchayee Yojana (PMKSY in short) came to be launched by the Govt. of India during the year 2015-16 to enhance physical access of water on farm and expand cultivable area under assured irrigation, improved on farm water use efficiency, introduce sustainable water conservation practices, etc.

**14.** PMKSY is an umbrella scheme consisting of two major components being implemented by the Ministry of Jal Shakti, namely Accelerated Irrigation Benefit Programme (AIBP) and Har Khet Ko Pani (HKKP). In addition, PMKSY also came to consist of a Watershed Development Component (WPC), to be implemented

by the Ministry of Rural Development (MoRD), Govt. of India and that is how the acronym WDC-PMKSY came into use and reference.

**15.** Upon the expiry of the first WDC PMKSY, the second version came into being to be known as WDC PMKSY 2.0. It is with respect to this WDC PMKSY 2.0 that “Guidelines for New General Watershed Development Projects (WDC PMKSY 2.0), 2021” came to be issued by the Department of Land Resources DoLR, Ministry of Rural Development (MoRD), Govt. of India. These guidelines are to be referred herein after in short as **WDC PMKSY 2.0 Guidelines**. WDC PMKSY 2.0 Guidelines are to very large extent in all its essentials modeled on the Revised Guidelines, 2011.

**16.** Out of the present two writ petitions under adjudication, writ petition WP(C) No. 880/2022 came to be filed first on 19.04.2022, whereas second writ petition WP(C) No. 1439/2022 followed soon instituted on 30.06.2022. The petitioners in the two writ petitions are common and are 153 in number.

**17.** In the writ petition WP(C) No. 880/2022, there are twenty (20) respondents, involving no private respondent, whereas in writ petition WP(C) No. 1439/2022 in addition to the twenty (20) respondents figuring in WP(C) No. 880/2022, seventy six (76)

respondents came to be added to make the total tally of respondents to ninety six (96).

**18.** In writ petition WP(C) No. 880/2022, the cause of action for the 153 petitioners to come in the writ cause was coming into picture of a communication No. RD/IWMP/97/42/2012/III/1046-66 dated 06.04.2022 issued by the respondent No. 4 – Chief Executive Officer, IWMP, J&K in terms whereof by citing the directions of the Commissioner/Secretary to Govt., Department of Rural Development and Panchayati Raj (Chairperson IWMP, J&K), all the Project Managers of IWMP came to be directed to inform all Watershed Development Team Members (WDTs), Data Entry Operators and Multi Tasking Staff of respective concerned districts of UT of J&K to attend interview for their deployment in new projects sanctioned under **WDP PMKSY 2.0** scheduled to be held in the Conference Hall Panchayat Bhawan, Railway Road, Jammu as per the schedule given.

**19.** The issuance of this communication was read by the petitioners who were also supposed to attend the said interview being the serving Watershed Development Team (WDT) members, as their possible ouster from their respective engagements on account of selection and rejection formula envisaged under the interview.

**20.** Upon the institution of this writ petition WP(C) No. 880/2022, this Court, in terms of an order dated 06.04.2021 while issuing notice to the respondents, came to direct that the petitioners be not replaced by similar arrangements.

**21.** Soon after the institution of the writ petition WP(C) No. 880/2022 relatable to the cause of action pertaining to issuance of impugned communication No. RD/IWMP/97/42/2012/III/1046-66 dated 06.04.2022 from the end of the respondent No. 4 – Chief Executive Officer, IWMP, J&K, subsequent development comes to take upon issuance of an order No. 12-RD-IWMP of 2022 dated 16.06.2022 issued by the respondent No. 3 – Commissioner/Secretary to Govt. Rural Development & Panchayati Raj (as Chairperson IWMP, J&K) in terms whereof sanction came be accorded for engagement of 76 persons enlisted in Annexure-A thereto as Watershed Development Team (WDT) members, Date Entry Operators & Multi Tasking Staff.

**22.** This afforded a fresh cause of action for the writ petitioners of writ petition WP(C) No. 880/2022 to come up with the second writ petition WP(C) No. 1439/2022 instituted on 30.06.2022 thereby challenging the engagement of 76 persons purported in terms of Order No. 12-RD-IWMP of 2022 dated 16.06.2022 who are now the respondent Nos. 21 to 96 figuring in the second writ petition WP(C) No. 1439/2022.

**23.** Before this Court comes to deal with the subject matter of the aforesaid two writ petitions, WDC PMKSY 2.0 Guidelines begs for reading and understanding to figure out as to whether the Guidelines do support and sustain the course of action undertaken at the end of the respondent No. 3 – Commissioner/ Secretary to Govt., Rural Development & Panchayati Raj (as Chairman IWMP, J&K) and the respondent No. 4 – Chief Executive Officer IWMP, J&K which led the petitioners to approach this Court through the medium of the said two writ petitions.

**24.** This Court has no hesitation to observe at the very outset that the petitioners themselves are the product of the same very process to earn their engagements by which the respondent Nos. 21 to 96 have been purportedly engaged but nevertheless one wrong is not supposed to justify repeat of another so on that count this court can not disqualify the writ petitioners' cause by keeping in view the equities of the case.

**25.** Since the adjudication of the writ petitions filed by 153 petitioners is sourced to an action and order of the respondent No. 3- Commissioner/Secretary to Govt., Rural Development Department & Panchayati Raj, UT of J&K (Chairman IWMP, J&K) by taking recourse to Watershed Development Component of "Pradhan Mantri Krishi Sinchayee Yojana (WDC2.0)," as such, it

calls for this Court at the very start, to lay in perspective the said scheme which is formulated in the name of “Guidelines for New Generation Watershed Development Projects – WDC-PMKSY 2.0” issued by the Department of Land Resources (DoLR), Ministry of Rural Development (MoRD), Govt. of India – 2021.

**26.** WDC-PMKSY2.0 Guidelines has the following parts and corresponding sections which are reproduced hereunder:-

|     |                                                                                                   |                   |
|-----|---------------------------------------------------------------------------------------------------|-------------------|
| I   | EVOLUTION AND NEED OF GUIDELINES FOR NEW GENERATION WATERSHED DEVELOPMENT PROJECTS – WDC-PMKSY2.0 | Sections 1 to 7   |
| II  | INSTITUTIONAL ARRANGEMENTS AT NATIONAL, STATE AND DISTRICT LEVELS.                                | Sections 8 to 10  |
| III | PROJECT LEVEL INSTITUTIONS                                                                        | Sections 11 to 13 |
| IV  | SUPPORT FROM KNOWLEDGE PARTNER AND PANCHAYATI RAJ INSTITUTIONS                                    | Sections 14 to 15 |
| V   | IMPLEMENTATION STRATEGY AND ROADMAP                                                               | Sections 16 to 19 |
| VI  | PROGRAMME FINANCING                                                                               | Sections 20 to 23 |
| VII | BUILDING CAPACITIES & PARTNERSHIPS AND EVALUATING OUTCOMES                                        | Sections 24 to 28 |

**27.** Before proceeding further with the reference to the facts and circumstances of the two writ petitions in a combined manner so as to retain the logical narration of the facts and circumstances, it is essential to mention here that the **WDC PMKSY 2.0 Guidelines** itself has given acronyms to various expressions being repeatedly used in the Guidelines and in the context of the present case the said acronyms are as under:

|                                             |   |       |
|---------------------------------------------|---|-------|
| • Integrated Watershed Management Programme | - | IWMP  |
| • National Level Nodal Agency               | - | NLNA  |
| • Project Implementing Agency               | - | PIA   |
| • Project Management                        | - | PM    |
| • Pradhan Mantri Krishi Sinchayee Yojana    | - | PMKSY |
| • State Level Nodal Agency                  | - | SLNA  |
| • State Level Sanctioning Committee         | - | SLSC  |
| • State Level Nodal Department              | - | SLND  |
| • Watershed Committee                       | - | WC    |
| • Watershed-cum-Data Centre                 | - | WCDC  |
| • Watershed Development Fund                | - | WDF   |
| • Watershed Development Project             | - | WDP   |
| • Watershed Development Team                | - | WDT   |

**28.** Part-II section 8 deals with National Level Institutions. The watershed programme envisaged under WDC-PMKSY 2.0 is meant to be anchored in the Department of Land Resources

(DoLR) in the Ministry of Rural Development (MoRD) as National Level Nodal Department (NLND).

**29.** This National Level Nodal Department (NLND) is to have a Steering Committee under the Chairmanship of Secretary, Department of Land Resources (DoLR) for overseeing the implementation of watershed programmes at National level. The composition of this Steering Committee is provided under section 8.1.2 of Part-II.

**30.** Next to the National Level Nodal Department (NLND) and National Steering Committee is the National Level Nodal Agency (NLNA) to be comprised of Watershed Management Division of the Department of Land Resources (DoLR).

**31.** The domain of National Level Nodal Agency (NLNA) is to supervise and guide participatory watershed development plan in India. This National Level Nodal Agency (NLNA) is meant to have professionals possessing expertise and experiences in the domains of programme management, monitoring and evaluation, data management, agriculture, animal husbandry, fishery, forestry, water management and community institution development etc.

**32.** The functions of National Level Nodal Agency (NLNA) are provided under section 8.1.3 of Part-II.

**33.** Section 9 of Part-II provides for State Level Institutions which are supposed to be constituted to carry out respective functions and working as envisaged with respect to each.

**34.** Section 9.1 provides for State Level Sanctioning Committee (**SLSC**) to be under the Chairmanship of Chief Secretary or an equivalent officer as the State/UT Govt. may decide. This State Level Sanctioning Committee (**SLSC**) is to be responsible for overall strategy, approach and supervision of watershed development projects in the given States/UTs. This State Level Sanctioning Committee (**SLSC**) is to be the highest body in a given State or UT.

**35.** Next to the State Level Sanctioning Committee (**SLSC**) is the State Level Nodal Department (**SLND**) in terms of section 9.2 of Part-II. This Department is to be the one, which according to the Rules of Business of a given State/UT, is subject to house the watershed development projects at the State/UT level.

**36.** Next to the aforesaid two State level entities of **SLSC** & **SLND** is to be the **State Level Nodal Agency (SLNA)** envisaged under section 9.3 of Part-II. This State Level Nodal Agency (**SLNA**) is to be constituted by the State/UT Govt. as a Directorate/Commissionerate/Mission/Society/Authority. It is this State Level Nodal Agency (**SLNA**) which is to be suitably empowered to enable implementation of the watershed development projects by

converging scheme resources with those under Central [MGNREGA, NRLM, Gram Panchayat Development Plan (GDPD) and CAMPA etc].

**37.** In the context of present two writ petitions, with respect to UT of J&K it is this State Level Nodal Agency (**SLNA**) which has come to play its part by its purported courses of action.

**38.** The State Level Nodal Agency (**SLNA**) is to sign a Memorandum of Understanding (**MoU**) with the State Level Nodal Department (**SLND**), setting out mutual expectations with regard to performance, timelines and financial parameters including conditions related to release of funds into its account.

**39.** This State Level Nodal Agency (**SLNA**) is to be constituted of an Additional Chief Secretary/Agricultural Production Commissioner/ Development Commissioner or their equivalent for effective inter-departmental/ agency coordination in the States/UTs. An official heading the State Level Nodal Agency (**SLNA**) is to be designated as a **Chairperson** as well as the **Chairman** which in the present case is the respondent No. 3 i.e., the Commissioner/ Secretary, Rural Development and Panchayati Raj, UT of Jammu & Kashmir.

**40.** This State Level Nodal Agency (**SLNA**) is supposed to have a full-time Chief Executive Officer (**CEO**), who may be a serving Government Officer on deputation or a contractual

appointee for a period not less than three years. A given State Level Nodal Agency (**SLNA**), under its Chairperson/Chairman and Chief Executive Officer (CEO), is meant to have four to seven professionals with specific domain knowledge to be selected either by the State Level Nodal Agency (**SLNA**) by way of deputation of experts/professionals available in appropriate line Departments of the Government or on contractual basis through a transparent open market selection. A requisite number of administrative staff is also meant to be provided to State Level Nodal Agency (**SLNA**) which can be drawn from the Govt. Departments on deputation or from market on contractual basis. One of the functions of State Level Nodal Agency (**SLNA**) is to establish and maintain State Data Cell (**SDC**) from the funds sanctioned to the States/UTs.

**41. This Court would advert to the specific nature of functions reserved for State Level Nodal Agency (SLNA) under Section 9.3.3 herein next at the relevant point of time dealing with the matter in hand.**

**42.** Funding of the State Level Nodal Agency (**SLNA**) and the State Data Cell (**SDC**) is to be from the budgetary allocations made for watershed development component of **PMKSY**.

**43.** At a District level in a given State/UT, the institutions to be at work are provided in section 10 of Part-II.

44. First of such district level institution is **Watershed Cell cum Data Centre (WCDC)** to be established at district level to oversee the implementation of watershed development projects in a district.

45. This Watershed Cell cum Data Centre (**WCDC**) is to be headed by a District Collector/Deputy Commissioner as Chairperson. This Watershed Cell cum Data Centre (**WCDC**) is supposed to have a Project Manager who in effect will be serving as the CEO of the said Cell. Functions of Watershed Cell cum Data Centre (**WCDC**) are provided under section 10.1.5 of Part-II.

46. **This Court would advert to the relevant functions of WCDC at the relevant point of time in the context of adjudication of the present matter.**

47. After setting up of National Level/State Level/UT Level Institutions in terms of Part-II to work out the watershed programme envisaged under WDC-PMKSY2.0 is the **Part-III** which provides for project level Institutions.

48. Section 11 of Part-III envisages a **Project Implementing Agency (PIA)** which is to be responsible for implementation of watershed development project/s through **Watershed Committee (WC)**.

**49.** For the purpose of selecting and approving a Project Implementing Agency (**PIA**), the State Level Nodal Agency (**SLNA**) is vested with the power to evolve and lay down appropriate mechanism for selecting and approving the Project Implementing Agency (**PIA**) which may include relevant line Departments, autonomous organizations under State/Central Governments/ Research Bodies, Panchayats, Voluntary Organizations (VOs), Development Agencies set up by Private Trusts and Industries to **operate their** Corporate Social Responsibility (CSR).

**50.** The selection of Project Implementing Agency (**PIA**) is to be carried out by a Watershed Cell cum Data Centre (**WCDC**) in accordance with the laid down norms by State Level Nodal Agency (**SLNA**). Thus even for picking up a Project Implementing Agency (**PIA**), the State level Nodal Agency (**SLNA**) is excluded to have any intervention.

**51.** It is the Project Implementing Agency (**PIA**) which is vested with the authority to constitute dedicated **Watershed Development Teams (WDTs)** as envisaged under section 11.1 of Part-III.

**52.** It is with this Watershed Development Teams (**WDTs**) that the petitioners are all related to, meaning thereby creation and selection of Watershed Development Teams (**WDTs**) is not in the

domain of State Level Nodal Agency (**SLNA**) or its chairperson/ chairman by any stretch of reference and situation.

**53.** In the event of Voluntary Organizations (VOs) and Private/Trust Development Agencies, being selected as Project Implementing Agency (**PIA**), the parameters are laid down in section 11.1.1 of Part-III.

**54.** Section 11.2 envisages that it is the Project Implementing Agency (**PIA**) who is to sign a contract/MoU with the Watershed Cell cum Data Centre (**WCDC**) containing well defined “Terms of Reference” (ToR), roles and responsibilities of the Project Implementing Agencies (**PIAs**) and the names and profiles of the Watershed Development Team (**WDT**) to be included in the said contract/MoU.

**55.** The roles and responsibilities of Implementing Agency **PIA** are spelled out in section 11.3. In case, if the Project Implementing Agency (**PIA**) happens to be a Govt. Agency, then said Govt. agency, as **PIA**, is entitled to built up its Watershed Development Team (**WDT**) by taking suitable human resources from the various departments/agencies including its own, on deputation/transfer, or on contract from outside as envisaged under section 11.4. In the context of present case, it is nowhere to be found as to whether there is any Project Implementing Agency (**PIA**) in existence and functioning in UT of J&K.

**56.** With a Project Implementing Agency (**PIA**) having been set up in a State/UT, **Watershed Development Team (WDT)** is required to be constituted under section 12 of Part-III and that is to be set up by none else than the Project Implementing Agency (**PIA**).

**57.** This Watershed Development Team (**WDT**) is to act as a technical team at the project level and to guide **Watershed Committee (WC)** in planning and implementation of project activities.

**58.** Minimum composition of Watershed Development Team (**WDT**) is to be of four members, one of them being a woman. The roles and responsibilities of Watershed Development Team **WDT** is provided under section 12.2.

**59.** The structuring of the organizational set up of WDC-PMKSY 2.0 or for that matter of its earlier version PMKSY is pyramid like i.e., narrow at the top and broader at the base.

**60.** To begin from the type of the organizational structure of WDC-PMKSY2.0 Par-II, at the base/ground level, the actual course of action of the project is meant to be carried out by Gram Sabha (**GS**) and Watershed Committee (**WC**) as envisaged under section 13 Part III. The very opening of section 13 is that very purpose of forming people's institution in Watershed Programme is to provide people the "ownership of the project" by making

them an integral part of the decision making, giving them control over their resources, autonomy to implement the project, capacity to use resources sustainably and carry on the process even after completion of such projects.

**61.** The respective role of Gram Sabha (**GS**) and the Watershed Committee (**WC**) is spelled out in section 13.1, 13.2, 13.21 & 13.23. The reason for entrusting the entire project in the hands of Gram Sabha (**GS**) and the Watershed Committee (**WC**) is because of the fact that after 73<sup>rd</sup> Constitutional Amendment with effect from 24.04.1993, Watershed Development Plan has been included in the schedule of subjects to be handled by the Panchayats.

**62.** The churning of the said provisions of WDC-PMKSY2.0 Guidelines would bring out in total clarity a position that actual implementation of the project is to be done by the Project Implementing Agency (**PIA**). The Project Implementing Agency (PIA) is to be assisted by Watershed Development Team (**WDT**) consisting of experts in the area of social sciences, agriculture, agronomy, horticulture, afforestation etc.

**63.** In terms of their engagements, the petitioners have come from the aforesaid backgrounds in their respective manner and so is the case of the respondent Nos. 21 to 96. Now once it is the policy guideline position that Watershed Development Team

**(WDT)** composition is meant to be carried out by a Project Implementing Agency **(PIA)**, then it rules out any intervention and involvement of State Level Nodal Agency **(SLNA)** to indulge and intermeddle by an over reach in the matter of issuing advertisement for carrying out contractual engagements of Watershed Development Team/s (WDTs) and that is where the genesis of the entire problem resulting in institution of the two writ petitions has come from.

**64.** Now coming to the facts of the case, which are commonly found in the aforesaid two writ petitions, the petitioners refer their engagements to be sourced to advertisement notices No. RD/SLNA/WDT/36/2012 dated 20.07.2012, No. 01/RD/SLNA of 2013 dated 22.05.2013, No. 05/RD/SLNA of 2013 dated 24.10.2013 & No. 03/RD/SLNA of 2014 dated 02.08.2014. One of the four advertisements placed on record is No. 01/RD/SLNA of 2013 dated 22.05.2013 issued by the respondent No. 3 - Commissioner/ Secretary to Govt., Rural Development & Panchayati Raj, UT of J&K as being Chairperson, Nodal Agency for IWMP.

**65.** In terms of this advertisement, applications were invited from eligible candidates to be engaged as technical expert at district levels and Watershed Development Team (WDT) at district levels of the then State of Jammu & Kashmir. The advertisement

was for engagement of contractual basis for a period of two years linking to performance and extendable beyond two years till the completion of the concerned project subject to performance/work and conduct.

**66.** At the first instance, this Court has no reluctance to observe that the respondent No. 3 – Commissioner/Secretary to Govt., Rural Development & Panchayati raj as being Chairperson of the State level Nodal Agency (**SLNA**) of **IWMP** was supposed not to have indulged in association and issuance of any such advertisement for the purpose of the purported selection of Watershed Development Team (**WDT**) at any point of time including when the petitioners came to be engaged given the fact that it is not within the domain of authority of State Level Nodal Agency (**SLNA**) by any stretch of reference and record to carry out at its own such an engagement/selection exercise which is and was meant to be carried out by Project Implementing Agency (**PIA**) about which nothing is found to be whispered or referred as to whether any such Project Implementing Agency (**PIA**), be it from the Govt.'s end or drawn from the non-Govt. side, came to be ever constituted.

**67.** In the context of some of the petitioners' engagement as Watershed Development Team (WDT), same is referred to an order No. 93/SLNA-RD of 2013 dated 06.12.2013 issued by the

respondent No. 3 – Commissioner/Secretary to Govt., Rural Development and Panchayati Raj, UT of J&K as Chairperson SLNA for IWMP. 59 out of present 153 petitioners had come to be firstly engaged. Additional engagements came to be effected in terms of an order dated 05/SLNA-RD of 2013 dated 20.02.2013 again issued by the respondent No. 3 Commissioner/Secretary to Govt., Rural Development Department and Panchayati Raj, UT of J&K.

**68.** In terms of an order No. 04-SLNA-RD of 2014 dated 16.01.2014 issued by the respondent No. 3 – Commissioner/Secretary to Govt. Rural Development and Panchayati Raj, UT of J&K referable to advertisement notice No. 05/RD/SLNA of 2013 dated 24.10.2013 engagement of 83 candidates as Watershed Development Team/s (**WDTs**) in the Watershed Cell – cum – Data Centers (**WCDCs**) for a period of two years came to be ordered. This list of 83 engaged persons is also referable to 153 petitioners herein in the present writ petitions. In furtherance of the said advertisement notice No. 05/RD/SLNA of 2013 dated 24.10.2013, another order No. 09/SLNA-RD of 2014 dated 29.01.2014 came to be issued by the respondent No. 3 – Commissioner/ Secretary to Govt., Rural Development & Panchayati Raj, UT of J&K thereby ordering engagement of nine other persons as Watershed Development Team/s (**WDTs**) in the Watershed Cell – cum – Data Centers (**WCDCs**) for a period of two years.

**69.** In reference to the selection process undertaken in terms of an advertisement notice No. 03/PD/SLNA of 2014 dated 02.08.2014, engagement order came to be issued by the respondent No. 3 – Commissioner/Secretary to Govt., Rural Development & Panchayati Raj, UT of J&K in terms of Order No. 56/SLNA-RD of 2014 dated 01.12.2015 thereby ordering engagement of additional persons as Watershed Development Team/s (WDTs) in Watershed Cell – cum – Data Centers (WCDCs) for a period of two years.

**70.** This is how in terms of the aforesaid engagement orders the entire batch of 153 petitioners came to be engaged as Watershed Development Team/s (**WDTs**) for the respective projects under PMKSY in the different districts of the then State of Jammu & Kashmir, now UT of J&K, and on the basis of the said engagement orders, the engagement of the petitioners have been extended from time to time to last and thereby creating a sort of legitimate belief and expectation at their own that their engagement is of continuing nature given the fact that the PMKSY as a project is in continuity.

**71.** At the cost of repetition, this Court has no iota of doubt that at the first instance the respondent No. 3 – Commissioner/Secretary to Govt. Rural Development & Panchayati Raj, UT of J&K ought not to have undertaken any such exercise for carrying

out engagement of Watershed Development Team/s (**WDTs**). It is not meant to be in the domain of the State Level Nodal Agency (**SLNA**) of the then State of Jammu & Kashmir but still having done so then the very fact that these petitioners have now come to invest invested their expertise and age for a length of a time making them experienced in their respective engagements, as such, this factor ought to have weighed for continuing availing of their engagement for carrying out the project of WDC-PMKSY 2.0.

**72.** At this stage, it is apt to draw out the respective functions of State Level Nodal Agency (SLNA) as given in section 9.3.3 to be reproduced hereunder:-

**“9.3.3 Functions of the SLNA**

SLNA shall be a key agency to shoulder the primary responsibility for successful implementation of projects in the State/UT. The list of indicative responsibilities is as follows:-

- a) To prepare a State Perspective and Strategic Plan (SPSP) of watershed development projects for the State /UT (if not already prepared and approved) on the basis of plans prepared at the Block and District levels. SLNA may also consider developing springs especially in hilly terrain of States / UTs. It shall then submit this along with implementation strategy, expected outcomes and financial outlays to the NLNA for appraisal and clearance.
- b) To establish and maintain a State Data Cell (SDC) from the funds sanctioned to the States / UTs, and connect it online with the NDC.
- c) To provide technical support to all the WCDC, set up at the District level.
- d) To approve DPRs. While approving DPRs, it should be ensured that relevant activities originating from GPDP documents are incorporated in the DPRs.
- e) To approve a list of independent institutions for capacity building of various stakeholders within the

State /UT, and work out overall capacity building strategy in consultation with NRAA-T<sup>A</sup>LNA/SLND.

- f) To arrange sanctioning of individual watershed development projects submitted by the WCDC after appraisal and recommendation of Steering Committee of NLND, keeping in mind the budgetary authorization made by the SLSC.
- g) To approve PIAs identified/selected by WCDC by adopting objective and transparent selection criteria, and establish monitoring, review, evaluation and learning systems at various levels (internal and independent external systems);
- h) To undertake regular on-line monitoring of implementation projects in the State/UT. It shall also hold review meetings at fixed intervals, besides undertaking field visits to ensure quality of implementation. Commissioning of studies, evaluations, workshops, learning meets and the like, is another important task to build a feedback loop.
- i) To constitute a State level Panel of Independent Evaluating Agencies. The evaluating agencies may be shared with the Districts to take up Mid-term and End- of- term evaluation of independent projects.
- j) To prepare State-specific Process Guidelines, and Technology Manuals etc. in coordination with the SLND.
- k) To design and obtain approval of competent authority to release Guidelines for Establishment and Utilization of Watershed Development Fund (WDF)' based on mode! Guidelines given at Annexure-I."

**73.** The fact of extension of the respective engagements of the petitioners is born out from order No. 59-SLNA-RD of 2015 dated 02.12.2015 issued by the respondent No. 4 – Chief Executive Officer, State Level Nodal Agency (SNLA) J&K, Order No. 50-SLNA-RD of 2016 dated 02.07.2017 and Order No. 39-SLNA-RD of 2017 dated 25.10.2017.

**74.** When this Court examines Part VI of the WDC-PMKSY 2.0 Guidelines which pertains to Program Financing read with Part III

relating to Project Level Institutions, the position which comes out to be is like this that a Watershed Development Team **WDT** is set up by a Project Implementing Agency (**PIA**). As per section 12.1 Part III, the establishment costs of Watershed Development Team/s (**WDTs**) including salary, travel, etc is to be met by the Project Implementing Agency (**PIA**) by charging it to be 'Administrative Head of the Account.'

**75.** Watershed Development Team (**WDT**) is put in place for the entire duration of the project implementation. No fund use authorization is to be given to Project Implementing Agency (**PIA**) or Watershed Committee (**WC**) unless Watershed Development Team (**WDT**) is in place.

**76.** The training and orientation of Watershed Development Team (**WDT**) is to be facilitated by Watershed Cell – cum – Data Centre (**WCDC**). The onus to put in place a Watershed Development Team (**WDT**) is upon Project Implementing Agency (**PIA**) in terms of section 11.3 of Part III, so much so, that the names and the profiles of the Watershed Development Team (**WDT**) are also meant to be included in the contract/MoU which is meant to be executed between the Project Implementing Agency (**PIA**) with Watershed Cell – cum – Data Centre (**WCDC**) (11.2).

**77.** The duty and responsibility to select Project Implementing Agency (**PIA**) is not even given to State Level Nodal Agency (**SLNA**)

as it is assigned to Watershed Cell –cum – Data Centre **(WCDC)** to select Project Implementing Agency/ies **(PIAs)** in accordance with the laid down norms (11.1). The functions of the Watershed Cell-cum- Data Centre **(WCDC)** are given in 10.1.5 and number one stated function is with respect to selection of suitable Project Implementing Agency/ies **(PIAs)**. It is the Watershed Cell-cum-Data Centre **(WCDC)** which is meant to oversee implementation of Watershed Development Project/s in each district and that is why the Chairperson of Watershed Cell-cum-Data Centre **(WCDC)** is supposed to be District Collector/ Deputy Commissioner.

**78.** It is the Watershed Cell-cum-Data Centre **(WCDC)** which is supposed to have a Project Manager who is to be responsible for implementation of Watershed Projects in his jurisdiction. The roles and responsibilities of Watershed Cell-cum-Data Centre **(WCDC)** is fully stated in section 10 of Part III.

**79.** Any avid reader of the aforesaid WDC-PMKSY 2.0 Guidelines would have come to figure out the respective roles and responsibilities of the layered authorities/institutions/agencies under WDC-PMKSY 2.0 but for the reasons, which present a very sorry state of affairs an officer of the rank of Commissioner/ Secretary to Govt., Rural Development and Panchayati Raj, of the then State of J&K (now UT of J&K) or for that matter even the higher officials/authorities in the hierarchy above, failed to see

whether the project was being actually implemented in the manner as envisaged under WDC-PMKSY and WDC-PMKSY 2.0 Guidelines or the implementation was being carried out in a cosmetic manner just for sake of fund utilization as if it was a matter of just selecting few individuals as Watershed Development Team (**WDT**) and then leaving the entire project work in their hand. This Court finds a very clear case of fence eating the crop.

**80.** This Court finds itself in a catch-22 situation by the scenario that the petitioners are also the product of perversion of policy and procedure and the new entrants i.e. the respondent Nos. 21 to 96 are also born out of the same perverted procedure, but the petitioners have the benefit of being there in terms of their engagement with the WDC-PMKSY for quite a length of time having in the process gained the project related expertise and local knowledge and, as such, carry a priority of preserving their engagement as against the respondent Nos. 21 to 96.

**81.** In para 6 to 9 of the writ petition WP(C) No. 880/2022, the petitioners have referred to the respondent's orders of engagement on the basis of which they came to be engaged starting from January, 2013 onwards and lastly in February, 2020. The petitioners have infact also referred to the fact that in addition to their duties as Watershed Development Teams

**(WDTs)**, the petitioners also came to be deputed to discharge even the election duties.

**82.** The petitioner are well justified in pleading in para 13 that they have performed their duties with honesty and dedication as Watershed Development Teams **(WDTs)**. Dedication and length of the service and the experience gathered in terms of the working of a Watershed Development Teams **(WDTs)** by the petitioners is sure to make the execution of the claim more effective which is meant to be undermined by the processes of interview conducting in terms of the impugned exercise in terms of letter No. RD/IWMP/97/42/2012/ III/1046-66 dated 06.04.2022 and the purported selection of the respondent Nos. 21 to 96 in terms of order No.12-RD-IWMP of 2022 dated 16.06.2022. The petitioners have averred that pick and choose method being adverted to by the respondent Nos.3 & 4 is meant to weed out the petitioners by the new recruitment for the Watershed Development Teams **(WDTs)**.

**83.** The manner in which the selection and engagement of the petitioners as Watershed Development Teams **(WDTs)** came to take place based upon which advertisement issued exercises, the petitioners have come to entertain at their respective ends a strong impression and belief as if they are in quasi-govt. employment and that is where the impugned exercise undertaken

by the respondent Nos. 3 & 4 at their end led to an apprehension in the minds of the petitioners that they are now being sought to be ousted and replaced by a new set of Watershed Development Teams **(WDTs)**.

**84.** The petitioner cannot be blamed for nursing of the said impression in their respective minds as the blame lies on the shoulders of the respondent Nos. 3 & 4 or for that matter the authorities who failed to carry out an audit of functioning and working of WDC-PMKSY and also WDC-PMKSY 2.0 to find out as to whether the things are being done in the manner as envisaged under the Guidelines of 2011 as well as of WDC-PMKSY 2.0 Guidelines.

**85.** This Court is left wondering that having compromised the entire structural set up of the project working whether the investments of the funds have served the actual intended objective and purpose at the ground level or not. The Court is not inclined to venture into this debate as this is for the authorities concerned to spark their attention to look into the matter and set the house in order before it derails the very policy prescribed for attaining identified long standing and serving purpose.

**86.** The petitioners in writ petition WP(C) No. 880/2022 have sought quashment of the course of action in form of issuance of a communication No. RD/IWMP/97/42/2012/III/1046-66 dated

06.04.2022 calling upon the petitioners to undergo the interview for WDC-PMKSY 2.0 read with an extension communication and also seeking relief in the form of mandamus unto the respondents to allow the petitioners to continue to perform their duties as Watershed Development Teams **(WDTs)** in their respective districts on the basis of their length of service, performance and experience and for that purpose to extend their engagement till the execution of WDC-PMKSY 2.0 with all consequential benefits. In fact the petitioners are also seeking regularization of their services on the basis of their engagement in WDC-PMKSY.

**87.** In writ petition WP(C) No. 1439/2022, the petitioners are seeking, in furtherance of the relief sought in writ petition WP(C) No. 880/2022, quashment of engagement/ appointment of the respondent Nos. 21 to 96 in terms of impugned order No. 12-RD-IWMP of 2022 dated 16.06.2022 issued by the respondent No. 3 and consequently upsetting the purported engagements of the respondent Nos. 21 to 96. The petitioners also seek continuation of their engagement as Watershed Development Teams **(WDTs)** in their respective districts.

**88.** The respondent No. 4 i.e. the Chief Executive Officer IWMP, J&K representing the official respondents in his reply to writs has come forward stating that upon expiry of contractual period of engagement the petitioners have no right to crib about the course

of action at the end of the official respondents. In this regard, reliance is being sought to be placed upon a Division Bench judgment of this Court in the case of Nisha Sharma Vs Union Territory of Jammu & Kashmir and others and the judgment of Hon'ble Apex Court in case titled Karnataka Vs Umadevi, 2006 AIR SC 1806.

**89.** A perusal of the reply would show that the respondent No. 4 – Chief Executive Officer IWMP, J&K has hardly any working idea of the entire WDC-PMKSY 2.0 Guidelines except for reference sake as to how the project in terms of WDC-PMKSY 1.0 came to be initiated and implemented. The respondent No. 4 – Chief Executive Officer IWMP, J&K in his reply is betraying the very understanding of WDC-PMKSY 2.0 Guidelines and before that the revised Guidelines of 2011 under which WDC-PMKSY 1.0 was put to implementation.

**90.** In his reply, the respondent No. 4 – Chief Executive Officer IWMP, J&K is stating that WDC-PMKSY 1.0 has been continued by the Govt. of India beyond 2021-22 under the new Generation Watershed Project (WDC-PMKSY 2.0) in which 18 projects have been sanctioned at the project cost of Rs. 189.92 crore for treatment of 67828 Ha of land for which an amount of Rs. 11.98 crore stood released by the Govt. of India during 2021-22 but for the districts of Srinagar, Ganderbal and Pulwama no project

stood sanctioned under WDC-PMKSY 2.0. For WDC-PMKSY 2.0 requirement of manpower is said to be of 122 personnels (17 DLTEs, 17 Accounts, 17 DEOs, 17 Multi tasking staffs & 54 WDTs).

**91.** The justification for subjecting the already engaged WDTs i.e., the petitioners for interview is being cited in reply by saying that the implementation period of the projects sanctioned under Bach IV (41) and Batch VI (41) had expired on 31.03.2022 and as the agency was to come up with the completion reports of 82 projects carrying out the end line evaluation in response of 119 projects (37 of Batch III, 41 of Batch IV and 41 of Batch V), which needed a sufficient manpower for carrying out the said tasks and keeping in view the availability of the experienced staff in the form of the petitioners having gained experience over the last 8 to 10 years in the implementation of the project sanctioned under WDC-PMKSY 1.0, call to conduct the interview was taken on already engaged IWMP manpower for engagement of Watershed Development Teams (**WTDs**), Data Entry Operators and Multi Tasking Staff for implementation of new Generation WDC-PMKSY 2.0.

**92.** In order to serve the said purported purpose, six (6) – members committee was constituted to carry out the interview which is said to have carried out the interview out of the existing

259 WDTs and 53 other supporting staff, out of which 87 participated whereas the non-participating ones were reckoned to be not interested in their engagement.

**93.** With respect to WDC-PMKSY 1.0, 144 projects are said to have been sanctioned which required the staff strength of 276, whereas under WDC-PMKSY 2.0 only 18 projects have been sanctioned and that calls for reduced staff strength.

**94.** It is stated that the petitioners are the manpower engaged for WDC-PMKSY 1.0, whereas for WDC-PMKSY 2.0 engagement of new manpower has been carried out for which purpose the authorities instead of hiring the staff from open market took a lenient view in respect of the petitioners and decided to conduct the interview of the staff engaged under WDC-PMKSY 1.0 for the purpose of their reengagement for WDC-PMKSY 2.0.

**95.** Long and short of the respondent No. 4's reply is that the petitioners' engagement as Watershed Development Teams **(WTDs)** vis-à-vis WDC-PMKSY 1.0 has outlasted its purpose and for WDC-PMKSY 2.0 the petitioners were called for interview to do short listing for engagement of manpower on a shorter strength.

**96.** Nowhere in the reply, it has been made clear that why the respondent Nos. 3 & 4 in terms of issuance of the impugned communication dated 06.04.2022 clarified to the notice and understanding of the petitioners or for that matter the Watershed

Development Teams **(WTDs)** that WDC-PMKSY 1.0 has attained its project purpose and all the projects thereunder have come to an end thereby no more requiring the engagement of the petitioners, whereas, on the other hand, the purported selection of the respondent Nos. 21 to 96 to be engaged as Watershed Development Teams **(WTDs)** soon followed in terms of the impugned order No. 12-RD-IWMP of 2022 dated 16.06.2022 i.e., within a period of two months from the date of issuance of the impugned interview notice. Thus, there is more than what meets the eye in the case at the end of the respondent Nos. 3 & 4 which has compounded the confusion which has given a genuine apprehension to the petitioners.

**97.** The very essence of revised 2011 Guidelines under which WDC-PMKSY 1.0 came to be executed and WDC-PMKSY 2.0 Guidelines is the decentralization of the project implementation and by keeping the Govt. and its higher officials only at the supervisory level and financing level, whereas the implementation and execution of the project being vested in the authorities at the ground level. By this mechanism, nobody, in particular at the level of composition of Watershed Development Teams **(WTDs)**, would have ever got an impression that he or she has been actually engaged as WDT by the State or for that matter the UT of Jammu & Kashmir in public employment, whereas the manner in which the petitioners came to be engaged did give them a very

strong impression that their engagement, though contractual, was carried out by the Govt. of State of Jammu & Kashmir and extended by the Govt. that if the fresh WDT engagement exercise though on contractual basis was also by the Govt. of UT of Jammu & Kashmir.

**98.** It is here where the thought process at the end of the petitioners that they being contractual, are sought to be replaced by another set of contractual appointees came into picture and the same cannot be faulted with because it is the respondent Nos. 3 & 4 who played their role in giving them said an impression and infact the respondent Nos. 21 to 96 are the prospective writ petitioners next in pipeline who are going to be served with the same very impression and expectation as the petitioners have come to entertain at their respective end, when WDC-PMKSY 3.0 would come into picture, given the fact that the Watershed Programme is going to be a perpetual programme in the life of a Nation in one form or another.

**99.** Thus, by having committed one wrong the respondent Nos. 3 & 4 are bent upon to commit a second wrong whose ramifications are going to be same and as that which have come out in the form of the two writ petitions before this Court.

**100.** In the light of the aforesaid facts and circumstances of the case, this Court of the opinion that the second wrong intended to

be undertaken at the end of the respondent Nos. 3 & 4 with respect to the purported engagement of the respondent Nos. 21 to 96 needs to be nipped in the bud before it is too late to mend the situation.

**101.** Accordingly, this Court hold and declares that the respondent Nos. 3 – Commissioner/Secretary to Govt. Rural Development & Panchayati Raj (as Chairperson IWMP, J&K) and the respondent No. 4 – Chief Executive Officer IWMP, J&K acted beyond their authority and domain in undertaking the selection exercise with respect to the engagement of the respondent Nos. 21 to 96 resulting in issuance of the order No. 12-RD-IWMP of 2022 dated 16.06.2022 and as a consequence whereof the very exercise of authority at the end of the respondent Nos. 3 & 4 is illegal and null and void *ab-initio*, which cannot be allowed to bear any effect and development.

**102.** The purported engagement of the respondent Nos. 21 to 96 is, thus, declared null and void.

**103.** As a consequence of the aforesaid, for the purpose of WDC-PMKSY 2.0, the respondent Nos. 3 & 4 are left at their discretion either to continue with the engagement of the petitioners to the extent the number of Watershed Development Teams (**WTDs**) is required or to get Project Implementing Agency (**PIA**) set up by the Watershed Cell-cum-Data Centre (**WCDC**) thereby to enable the

Project Implementing Agency **(PIA)** to carry out the engagement of Watershed Development Teams **(WTDs)** for WDC-PMKSY 2.0. In case the Project Implementing Agency **(PIA)** is established then for the purpose of constituting of Watershed Development Teams **(WTDs)**, the petitioners shall have a preference of consideration for their respective engagement to be Watershed Development Team **(WTD)** for WDC-PMKSY 2.0.

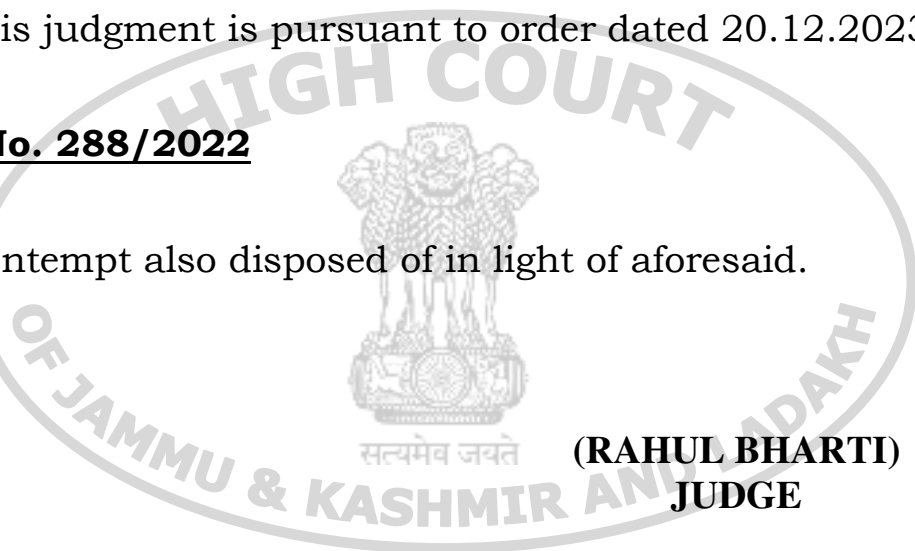
**104. *Disposed of*** accordingly.

**105.** This judgment is pursuant to order dated 20.12.2023.

**CCP(S) No. 288/2022**

**106.** Contempt also disposed of in light of aforesaid.

**JAMMU**  
**24.06.2024**  
 Muneesh



**(RAHUL BHARTI)**  
**JUDGE**

|                                   |          |
|-----------------------------------|----------|
| Whether the order is reportable : | Yes / No |
| Whether the order is speaking :   | Yes / No |