

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

OWP No. 701/2019

Ascend Telecom Infrastructure Pvt.
Ltd.

.....Appellant(s)/Petitioner(s)

Through: Mr. Dheeraj Nanda, Advocate

Vs

State of J&K And Others

..... Respondent(s)

Through: Mr. Mayank Gupta, Advocate for R-3 to 6
None for R-1 & 2

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
07.10.2025

1. Mr. Mayank Gupta, learned counsel appearing on behalf of the respondent Nos. 3 to 6 submits that he has drafted the reply in the instant petition, a copy of which has been provided to this Court which is taken on record.
2. The petitioner through the medium of the instant petition has sought the following relief:

“Issue a writ of certiorari to quash the impugned guidelines dated 10.04.2016 issued by the respondent No.2, the commissioner, Jammu Municipal Corporation, being illegal, ultravires and repugnant to the Article 301, 302 & 303 of the Constitution of India and also being in contravention to policy of distribution of powers of Legislative Competence as enshrined under the Constitution of India and also in contravention of Indian Telegraph Right of Way Rules, 2016 framed by Ministry of Communications (Department of Telecommunications), Government of India, in exercise of the powers conferred on it by sub-section (1) and clause (e) of Sub-section (2) of section 7 read with section 10, 12 and 15 of the Indian

Telegraph Act, 1885(913 of 1885), as gazette notified vide notification G.S.R. 10710(E) dated 15.11.2016.

Issue a Writ of Certiorari to quash the Notice No. JMC/S/295 dated 21.05.2018 issued by the respondent No. 5 and every action taken by the respondents pursuant to, as illegal, void, ultra vires and arbitrary.

Stay the operation of impugned guidelines dated 10.04.2016 and also of the notices issued on the basis thereof including the Notice No. JMC/S/295 dated 21.05.2018, till the pendency of the above titled writ petition.

Direct the respondents to not to create any hindrance, obstruction or impairment in the business activity of the petitioner including in the functioning and operation of its BTS sites within the jurisdiction of respondent corporation, any further.

Issue Writ of Mandamus commanding upon the respondents to implement the Indian Telegraph Right of Way Rules, 2016 framed by Ministry of Communications (Department of Telecommunications), Government of India, in exercise of the powers conferred on it by sub-section (1) and clause (e) of sub-section (2) of section 7 read with sections 10, 12 and 15 of the Indian Telegraph Act, 1885(13 of 1885), as gazette notified vide Notification G.S.R. 1070(E) dated 15.11.2016, in its letter and spirit.”

3. The record reveals that the instant petition was segregated from PIL No. 15/2017, by the Hon’ble Division Bench of this Court in terms of order dated 11.07.2025, and the same was directed to be listed before Single Bench.
4. In the reply filed, the respondents have taken a specific stand that the policy presently governing the subject matter of the instant petition is “The Jammu and Kashmir and Communication and Connectivity Infrastructure Policy (JKCCIP)” notified vide Government Order No. 48-ITD(JK) of 2020 dated 01.12.2020 and amended thereafter vide Government Order No. 28-JK(ITD) of 2023 dated 25.03.2023. The respondents have taken a further stand that as per Section 3 of the said

policy, it expressly supersedes the previous policies, and the Competent Authority under the latest policy is the Deputy Commissioner of the concerned District.

5. In the aforesaid backdrop, a specific stand has been taken by the respondents that the present writ petition does not survive as the same has been rendered infructuous. The respondents have also placed on record a copy of the Government Order No. 48-JK(ITD) of 2020 dated 01.12.2020 along with the reply so filed.
6. A relevant extract of the aforesaid Government Order No. 48-JK(ITD) of 2020 dated 01.12.2020 is reproduced as under:

Applicability: The Appropriate Authority shall exercise the powers under this Policy on an applicability for establishment and maintenance of Underground or Over ground Telegraph infrastructure by any Licensee/Infrastructure Provider on whom the powers of the telegraph authority have been conferred by notification under Section 19B of the Act, subject to any conditions and restrictions as may be imposed in such notification. This Government Policy shall be applicable to all Appropriate Authorities within the UT of Jammu and Kashmir including the various Development authorities, Industrial Development Authorities, other Statutory Authorities, P.W.D., Forest, HUDD, Revenue, Irrigation, Rural Development and also the Rural and Urban Local Bodies including the authorities of Central Government, not otherwise prohibited for security considerations. This policy will be a Uniform Policy across J&K UT and will supersede all other existing telecom infrastructure policies being issued/followed across the J&K UT.

7. Thus, in the light of the specific stand taken by the respondents the instant petition does not survive as the same has rendered infructuous and a prayer has been made by the learned counsel for the respondent Nos. 3 to 6 that the instant petition be disposed of having been rendered infructuous.
8. At this stage Mr. Dheeraj Nanda, learned counsel appearing on behalf of the petitioner submits that since the respondents have taken a specific stand that the earlier policy by virtue of which guidelines dated 10.04.2016 were issued by respondent No. 2 and is subject matter of the instant petition has been superseded by virtue of the latest policy promulgated by Government Order No. 48-JK(ITD) of 2020 dated 01.12.2020 and any action taken by the respondents in conformity with the said policy has also lost its significance as the same stand superseded. Thus, the action taken on the basis of the said policy which has since been superseded is also required to be annulled. Accordingly, the notice impugned dated 21.05.2018 is also required to be quashed.
9. Mr. Mayank Gupta, learned counsel for the respondent Nos. 3 to 6 when confronted with the same, fairly submits that since the impugned notice dated 21.05.2018 was an off-shoot of the earlier policy and a subject matter of the instant petition, he states that the said notice has also lost its significance and he assures the Court that the same shall not be acted upon as it has lost its significance. Mr. Mayank Gupta, as such, is in agreement with the arguments advanced by Mr. Nanda.

10. In the light of the statement made by the learned counsel appearing on behalf of the respondent Nos. 3 to 6, nothing survives in the instant petition as the same has rendered infructuous, as the grievance of the petitioner stands redressed. Accordingly, the instant writ petition stands **disposed of** by restraining the respondents to act upon the impugned Notice No. JMC/S/295 dated 21.05.2018 in the light of the assurance extended by the learned counsel for representing respondent No. 3 to 6 coupled with the fact that the new policy has been notified on 01.12.2020, wherein, the Competent Authority has been designated as the Deputy Commissioner of the concerned District.
11. However, disposal of the instant writ petition shall not come in the way of the respondents to initiate action against the petitioner in terms of the new policy/guidelines mentioned (*supra*) by the Competent Authority (Deputy Commissioner), in case, if the petitioner violates the new policy guidelines.
12. The instant petition is, accordingly, disposed of along with all connected application(s) in the manner indicated above.

(Wasim Sadiq Nargal)
Judge

Jammu
07.10.2025
Nikhil

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