Sr.No.152

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Reserved on:- 13.09.2024
Pronounced on :- 20.09.2024

WP(C) No. 2240/2024
CM No. 5451/2024

Sh. Vijay Sharma, age 48 years ….Petitioner(s)
S/o Sh. Yashpal Sharma,
R/o Village Chak Ganeshu District Jammu.

Through :- Mr. Rupinder Singh, Advocate.

V/s

1. U.T of Jammu and Kashmir ….Respondent(s)
Through Director General of Police, J&K,
Jammu.
2. Additional Director General of
Police, Jammu Range, Jammu.
3. Senior Superintendent of Police,
Jammu
4. Senior Superintendent of Police,
Criminal Investigation Department (C.I.D),
Jammu.

Through :- Mrs. Monika Kohli, Sr. AAG.

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

JUDGMENT

01. Through the medium of the instant writ petition, the petitioner has sought the following reliefs:-

(a) ***Writ of certiorari quashing the order No. SHQ/Legal/OWP-07/2024/19540-42 dated 30.08.2024 issued by Inspector General of Police, Security J&K, Srinagar and order No. Legal/ZPHQ/WPC-548/2024/21908-911 dated 02.09.2024 issued by Additional Director General of Police, Jammu Zone, Jammu.***

(b) ***Writ of mandamus directing the official respondents to provide the security (Personal Security Officer) to the petitioner herein in view of his status as Chief Organizer of Sewa Dal All India Congress Committee.***

02. The instant petition is by way of second round of litigation. Record reveals that the petitioner has already filed a writ petition bearing

WP (C) No. 548/2024 which came to be disposed of by this Court on 15.03.2024 in the following manner:-

> ***"Learned counsel for the petitioner while making his submissions in line with the contentions raised in the petition would pray for disposal of the petition at this stage with an innocuous direction to the respondents to consider the representation of the petitioner submitted for providing security cover to the petitioner being a political activist and Chief Organizer of Sewa Dal All India Congress Committee (J&K), Jammu.***
>
> ***Ms. Priyanka Bhat, Assisting counsel appearing vice Mrs. Monika Kohli, Sr. AAG is not opposing the prayer made by the learned counsel for the petitioner.***
>
> ***In view of the aforesaid submissions made by the appearing counsel for the parties, the present petition is taken up for final disposal and is disposed of with a direction to the respondents to consider the representation submitted by the petitioner for providing him the security cover on account of threat perception taking into account the CID report and allied material.***
>
> ***Disposed of"***

03. Pursuant to the aforesaid order, the threat perception of the petitioner was assessed and by virtue of communication dated 02.09.2024, (which is impugned in the present petition) the Additional Director General of Police, Jammu Zone, Jammu has conveyed to the Senior Superintendent of Police, District Jammu that the threat perception of the petitioner was assessed through field agency and the report was obtained which reveals that there is no specific threat to the petitioner in District Jammu. The communication further reveals that a report in this regard was also received from the Security Headquarters J&K vide communication No. SHQ/Legal/OWP-07/2016/10432-33 dated 16.05.2024.

04. Thus, the threat perception of the petitioner was assessed and the order passed by this Court mentioned (supra) in WP (C) No. 548/20224 was complied with. The instant petition has been preferred by the petitioner on the ground that the petitioner being a Chief Organizer of Sewa Dal All India Congress Committee (J&K), Jammu and his request for providing security was not considered by the respondents and feeling aggrieved of

the same, the petitioner had already approached this Court by way of writ petition bearing WP(C) No. 548/2024 in the first round of litigation which was disposed of with the direction to the respondents to consider his representation for providing him the security cover on account of threat perception taking into account the CID report and allied material.

05. Learned counsel for the petitioner submits that the said request of the petitioner for granting personal security has been dealt with in a very casual manner.

06. Learned counsel further submits that since the petitioner is a Chief Organizer of Sewa Dal All India Congress Committee (J&K), Jammu and during election he has to go for election campaign not in Jammu District, but in whole of the Jammu and Kashmir Provinces as well. He further submits that being a political leader, the Home Ministry of India has categorically said that security will be provided to each and every political worker irrespective of any party and since the petitioner belongs to a National Party, the rejection of the case for providing security on the ground that petitioner has no threat perception is total non-application of mind by the respondents and that too without taking into consideration the political scenario prevailing during the election time.

07. Learned counsel for the petitioner submits that a duty is cast upon the respondents to protect the life of political workers, those who are engaged in political activities that is during the election period and thus, the order impugned is required to be revisited and the respondents are under a legal obligation qua the petitioner to provide security to him.

08. ***Heard learned counsel for the petitioner at length and perused the record.***

09. On asking of the Court, Mrs. Monika Kohli, learned Sr. AAG has cause appearance on behalf of the respondents. With the consent of the learned counsel for the parties, the instant petition is taken up for disposal without issuing formal notice to the respondents.

10. The law is no more *res integra* that providing security to an individual or a political leader falls within the realm of security agencies after their threat perception is assessed by the Committee constituted in this regard which get inputs from all field agencies and the said Committee is designated as a 'Security Review Coordination Committee'. This Court has no mechanism to go into the question whether the threat perception has been rightly assessed or not. It is the domain of the security agencies to assess the threat perception of each individual or a political leader and on the basis of the inputs given by the field agencies, the decision is taken by the competent authority on the basis of the decision taken by the said Committee.

11. Mrs. Monika Kohli, learned Sr. AAG has placed reliance upon the judgment dated 11.11.2022 passed by this Court (Srinagar Wing) in OWP No. 511/2019, titled, ***"Noor Ahmad Shah Vs. State of J&K and others"*** and order dated 06.11.2024 passed by this Court in OWP No. 2376/2018, titled***, "Dr. Kamal Saini Vs. State of Jammu and Kashmir and others"***

12. Ms. Monika Kohli, learned Sr. AAG submits that a Security Review Coordination Committee has been constituted for the purposes of reviewing the assessment of threat to individuals, which is done after analyzing the reports of CID department through field agencies in accordance with the guidelines of Ministry of Home Affairs, Government of India as laid down in the Yellow Book. The aforesaid Committee so

constituted is best suited to assess the threat perception to an individual and recommend the level of security required in a particular case. It is stated that said Committee comprising of representatives from the State Special Branch, Subsidiary Intelligence Bureau, Zonal Police and the Home Department undertake a review periodically as per the provisions of the Yellow Book. The said Committee, according to her, analyses the threat perception faced by each individual and decides categorization, whereafter the level of security is provided to a person.

13. Since, in the instant case, threat perception of the petitioner has been assessed through the field agency and report obtained which reveals that there is no specific threat to the petitioner in District Jammu, this Court do not find any fault with the said decision taken by the authorities competent to assess the threat perception.

14. The question whether a person or individual needs security cover and if so, what level of security is to be provided, cannot be gone into by the Courts as it is for the empowered committee constituted by the Government which has to take a call on the issue. This Court in exercise of its writ jurisdiction cannot sit in appeal over the recommendations of the Security Review Coordination Committee and it cannot substitute its own opinion in place of the recommendations of the aforesaid Committee which had the benefit of analyzing the reports of the field agencies.

15. Record further reveals that since the threat perception has been assessed vis-a-vis District Jammu only and not to the Union Territory of Jammu and Kashmir where the elections are being held. This Court in the peculiar facts and circumstances of the instant case and also keeping in view the fact that elections are being held, deems it proper to direct the respondents to place the case of the petitioner afresh before the Security

Review Coordination Committee and the said Committee will re-assess the threat perception of the petitioner afresh on the inputs of the field agency *vis-a-vis* Union Territory of Jammu and Kashmir and if it is found that in the changed circumstances, security cover is required to be provided to the petitioner, the same be provided to him accordingly.

16. The aforesaid direction has been passed keeping in view the peculiar fact that the elections are being held in Union Territory of Jammu and Kashmir and the threat perception of the petitioner has been assessed only vis-a-vis District Jammu and not the Union Territory as a whole. The said direction shall not be construed as a precedent in other cases, as this Court has no domain or yardstick to go into the question vis-a-vis the threat perception of any individual or a political leader, which falls within the realm of field/security agencies.

17. Accordingly, the instant writ petition is, ***'disposed of'*** alongwith connected application(s).

(Wasim Sadiq Nargal)
Judge

Jammu:
20.09.2024
Renu

Whether the judgment is speaking? : Yes/No
Whether the judgment is reportable? : Yes/ No

Renu Bala
2024.09.20 17:33
I attest to the accuracy and
integrity of this document