

(1987) 02 J&K CK 0001
In the Jammu And Kashmir High Court
Case No : Writ Petition No. 7/1987

Inderjit Gupta

APPELLANT

Vs

State of J&K and Anr.

RESPONDENT

Date of Decision : 19-02-1987

Acts Referred:

Constitution of Jammu and Kashmir, 1956 — Section 145
Jammu and Kashmir High Court Rules, 1975 — Rule 148, 162, 57(2)

Citation : (1988) KashLJ 90

Hon'ble Judges : M.A.Shah, J and M.L.Bhat, J

Bench : Division Bench

Advocate : U.K.Jalali, Advocates appearing for the Parties

Judgement

1. Encouraged by the wording of rule 148 of the J&K High Court Rules of 1975, the petitioner has filed this petition seeking to quash the order of the Deputy Registrar of this court and praying for direction for supply of translated copies of judicial record and for directing the deputy Registrar not to list petitions of 1980 and 1982 till the petitioner is supplied English translation of Urdu documents from the judicial record.

2. It appears that civil revision petitions nos. 89/80/80/82 and 139/86 titled Inderjeet Gupta Vs. Bakshi Vishwaraiter/Subash Dutt are pending disposal in this court. The petitioner seems to have made an application for supply of English translation of Urdu documents which are said to be part of judicial record of the original file of the trial court out of which the three revision petitions have arisen. The Urdu documents, translation whereof is sought on payment of fee, are detailed out in the application and stamp duty is also paid to the deputy Registrar. The Deputy Registrar of this court on perusal of office reported has noted as under on the said

application:

It appears that at present there is no translating Facility available in the copying branch of the office. Hence the request of the applicant cannot be

acceded to at the moment. Inform him accordingly. Return the stamps. The application is filed.

3. Petitioner submits that his counsel, Shri G.D. Sharma Advocate was not well versant with the Urdu in Persian script, therefore he wanted the

translated copies of Urdu documents for his lawyer which he was entitled to get under the Jammu and Kashmir High Court Rules on payment of

fee within a specified period. Due to nonavailability of the copies the counsel could not argue the revision petition before this court and a single

bench of this court did not grant him adjournment to enable him to get English translation of Urdu documents, for which he had made an

application. However the single Judge had permitted the petitioner to take extracts from the file of the trial court and had directed the Deputy

Registrar to allow inspection of the file by the petitioner under his supervision. The file was to be made available to the petitioner in person because

his counsel was not well versant with the Urdu script. The petitioner has given details as to how adjournments were refused to him by the Single

Judge and he was accused of adopting delaying action. It is stated that the petitioner has a fundamental right and certain freedoms are guaranteed

to him which would include fair treatment at the hearing. On basis of Rule 148 he claims that he is entitled to receive the translated copies of Urdu

documents, without which his lawyer will not be able to argue the case. Registry's refusal to issue translated copies is said to be bad and violative

of the rules. Rule 148 of the J&K High Court Rules reads as under:

Any person entitled to obtain a copy of a Judicial Record may apply for a translation there of and he will be arranged for the translation furnished

to him on fee equal to double the fee chargeable for a copy thereof.

4. Rule 162 of the said Rules provides that in ordinary circumstances a copy shall be furnished not later than 3 P. M. on the fifth day after the fees

required under rules have been deposited.

5. It is argued by Mr. Jalali appearing for Mr. GD Sharma, that nonavailability of translation facilities in the Registry could not be made a ground

for not supplying the English translation of Urdu documents to him for which he

had made an application in accordance with the rules and had paid the prescribed fee also. This, in the opinion of the learned counsel, has denied his fairness and his right to have the services of a lawyer is taken away, which is violative of his fundamental rights. His lawyer is said to have no proficiency in Urdu scripts, therefore he wants English translation of the documents.

6. On the face of Rule 148, the argument advanced by the learned counsel for the petitioner appears to be attractive, but when the same is tested in the light of the spirit of the rules, it seems to be misplaced. Translation of Judicial record can be made to ensure the fairness in the administration of Justice. The question that would fall for determination is when her translation of a document which is in court language is envisaged by this rule or it is translation of some other document which is in a language alien to the State and to the litigant public. If a document is in the language of the State, its translation by a litigant cannot be demanded under Rule 148. The letter of the Rule alone is not to be seen. It is the spirit of the rule which is to be understood.

7. Fortunately for us, we have adopted a Constitution and section 145 of the constitution reads as under;

Official language of the State. The official language of the state shall be Urdu but the English language shall, unless the legislature by law otherwise provides, continue to be used for all the official purpose of the State for which it was being used immediately before the commencement of this Constitution.

Analysing this Section, it is abundantly clear that Urdu is the official language of the State. But English language will be used for all official purposes for which it has been used immediately before the commencement of the Constitution, unless its use is discarded by the Legislature Urdu language is not official language of the Govt. only. It is official language of the State and under Part VII of the constitution, State is to have an High court which will exercise jurisdiction within the State and which will be the court of record. The state has also other wings, which is Executive and legislature. Therefore, the language of the State cannot said to be the language of the Executive alone. It is official language of Judiciary also

8. Under Rule 57 (2) of the J&K High Court Rules, it is provided that all

judgments and orders shall be written, recorded drawn and signed either in English or in Urdu so the High Court has to make use of Urdu or English to write Judgments and orders and it cannot be said that Urdu is a language which is alien to us. It is constitutionally recognised official language of the State and that of the High Court. The proceedings in the subordinate courts or in this court may be taken in Urdu also because that is the official language recognised by the Constitution. With respect to documents or proceedings which are written or recorded in Urdu language, a party cannot seek translation of those proceedings or document merely because he has no proficiency in the script of the official language. In the same manner of English is permitted to be used till the legislature decides otherwise, a litigant cannot ask the court to supply him translation of English documents in vernacular. Rule 148 was perhaps introduced in the rules to see that the proceedings in the case not hampered for want of translation of those documents which are not in official language and which are in a language alien to the State. For instance, a document if filed in Sanskrit or in Arabic or in any other language, which is also recognised language for the rest of the country, a party probably not be within his rights to apply for translated copies of such documents either in Urdu or in English.

9. A party who does not know English or Urdu and knows Hindi alone, cannot ask the court to prepare for him the documents, which are in official language in Hindi. The rule cannot be interpreted to give absolute option to a party with regard to the supply of translated copies of documents. Translation of those documents which are in official language of the court are to be excluded from the purview of Rule 148.

10. Petitioner should not except Registry of the court to prepare brief of the case for him so as to enable him to instruct his lawyer to argue the case. The proceedings, the civil original suit taken before the trial court in presence of the petitioner is ample proof that the petitioner at all times had shown proficiency in Urdu language and now at revisional state he cannot be permitted to take a some result and ask the Registry to prepare brief of the case for him. This is not all envisaged by Rule 148 of the J&K High Court Rules. If we stretch the meaning of Rule 148 to the limit to which it is prayed to be stretched, the purpose and object of the Rule is defeated

and the Rule will be rendered absurd. Petitioner probably is under the impression that he has discretion to get the translated copies of documents and corresponding obligation is cast on the Registry to give him translated copies of the documents and proceedings which are taken in official language of the court. This impression of the petitioner is misconceived and cannot be accepted.

11. The note written by the Deputy Registrar also is outcome of misreading of the Rule 148 on which the petitioner relies whether or not there are translation facilities available in the Registry is entirely a matter which is not germane for the disposal of this petition because the petitioner has to first satisfy whether he was entitled to get translated copies of proceedings and documents copies of proceedings and documents which are recorded and written in Urdu script. That right is not vested in the petitioner nor is Registry obliged to please the petitioner. Therefore availability of translation facilities in the Registry is not a relevant consideration for the disposal of this petition. The note of the Registry therefore would not confer any right on the petitioner to file a writ petition because the Registry is not obliged or required to furnish translation of Urdu documents and proceedings taken by the trial court in the civil original suit to the petitioner. Therefore the note of the Registry is to be ignored and cannot per se confer any right on the petitioner to invoke the jurisdiction of this court on the basis of Rule 148 of the J&K High Court Rules. The construction placed on the said rule by the petitioner is also misplaced and no party or litigant is entitled to seek translation of proceedings or documents which are recorded or written in official language used in the State. Such a right can not be enforced. No litigant has a right to use the Registry as its suboffice and to get the translation prepared by it of those documents which are in court language so as to prepare his case. It will be unfair on the part of the litigants if they depend on the Registry and through the instrumentality of the Registry of this court desire to prepare their cases.

12. We, therefore, see no right in the petitioner for grant of the relief on the basis of Rule 148 of the J&K High Court Rules.

13. For the reasons discussed above, the writ petition is dismissed in limine. I agree.