

(2010) 05 J&K CK 0034

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 830 Of 2008, & CMP 1171 Of 2009,
CMP No.1212 Of 2008, CMP 162 Of 2009, Contempt No.06 Of 2009

Raj Kumar Mahajan and others

APPELLANT

Vs

State and others

RESPONDENT

Date of Decision : 03-05-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Jammu and Kashmir Municipal Corporation Act, 2000 — Section 324

Citation : (2010) 05 J&K CK 0034

Hon'ble Judges : Sunil Hali, J

Bench : Single Bench

Advocate : S.S.Nanda, M.P.Gupta, Neeru Goswami, Ajay Sharma, Advocates
appearing for the Parties

Judgement

The writ petitioners claim to be social workers and have keen interest in the matters of public. The grievance projected in the present writ petition

is regarding shifting of medical facilities by the Red Cross Society from Ist Floor to 2nd Floor in the complex owned by it. The writ petitioners also

seek a direction to respondent No.3 to implement Section 324 of the J&K Municipal Corporation Act in letter and spirit.

The grievances set out by the writ petitioners in the present petition are that Indian Red Cross Society is a body corporate constituted by the

Indian Red Cross Society Act, 1920. Its primary object is to provide aid to the sick and wounded members of the armed forces of the Union as

also to the civilians who are demobilized and sick. The provision of relief for the mitigation of suffering caused by epidemics, earthquakes, famines,

floods, disasters and calamities is also one of the prime objects of the Society.

In the present case, the writ petitioners are concerned with the question as to whether shifting of medical facilities from Ist Floor to 2nd Floor

constitutes a deviation from the aims and objects of the Society. Connected with this question whether there is any impediment which restrains the

Society in generating the income from the said property.

In order to appreciate this controversy, it is important to note that some writ petitions were filed against the Indian Red Cross Society in which

similar sort of relief was sought. It was contended in the said petitions that the Society is renting out and transferring part of the first floor of the Red

Cross Building, which according to the petitioners was against the aims and objects of the Indian Red Cross Society. The said petitions were

treated as Public Interest Litigation by the learned Single Judge vide its order dated 12.07.2004 and the matter was taken up by the learned

Division Bench.

The specific stand taken by the Indian Red Cross Society was that money is being generated by better utilization of its properties to achieve the

objects for which the Society was established. Society has undertaken several social welfare activities for which large amount is required.

Concurring with the stand taken by the Indian Red Cross Society, the learned Division Bench viewed that the Society was well within its right to

generate income from its properties and the same would not go against the objects of the Society. Writ petitions as such were dismissed vide order

dated 13.03.2008.

Somehow similar prayer has been sought in the present writ petition regarding shifting of the medical facilities by the Society from Ist Floor to 2nd

Floor and leasing out the same to the State Bank of India.

I fail to understand as to how shifting of medical facilities from Ist Floor to 2nd Floor violates the aims and objects of the Society or that it amounts

to failure on the part of the respondents to provide medical facilities to the people who are entitled to it. The argument is per se not tenable. It is not

the case where medical facilities have been denied. Society is well within its right to open the centre at any place within the complex for which no

complaint can be made by any person including the writ petitioners. One can require the Society to provide such facilities to the people who are

poor and old but one cannot restrain the Society to shift the medical facilities

from 1st floor to 2nd floor of the same building.

Regarding 2nd contention raised by the petitioners that no licence has been obtained under Section 324 of the J&K Municipal Corporation Act for

leasing out the building to the State Bank of India. On this, stand of the respondent No.3 is that as and when provisions of Section 324 of J&K

Municipal Corporation Act are violated, necessary steps will be taken in this regard. It is expected that respondent No.3 shall take necessary steps

to implement the provisions of Section 324 of the J&K Municipal Act.

Even, locus of the petitioners to file the present writ petition, has not been established. They claim to be social workers without placing on record

social activities conducted by them. It seems that the present writ petition has been filed not in public interest but to achieve collateral purpose.

In view of the above, I find no force in this writ petition. Accordingly, the same is dismissed along with connected CMP(s) with costs of Rs.3000/.

COA (W) No.06/2009.

In view of the dismissal of the main writ petition, this contempt does not survive and the same is, accordingly, dismissed.