
(2016) 03 J&K CK 0007

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 1136 of 1989

Ravinder Kumar Sharma

APPELLANT

Vs

State of Jammu and Kashmir

RESPONDENT

Date of Decision : 17-03-2016

Acts Referred:

Citation : (2016) AIR(J&K) 98 : (2016) 3 KLT 99

Hon'ble Judges : N. Paul Vasanthakumar, C.J. and Dhiraj Singh Thakur and Tashi Rabstan, JJ

Bench : Full Bench

Advocate : Mr. G.D. Sharma, Advocate, for the Appellant; Mr. A.V. Gupta, Sr. Advocate with Mr. Aditya Gupta, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

N. Paul Vasanthakumar, C.J.—This writ petition was admitted and was directed to be listed before the Full bench while issuing notice by order

dated 16.04.1990, probably on the basis of the prayer sought for in the writ petition seeking a declaration that the judgment reported in 1988 KLJ

90 (Inderjit Gupta v. State of J&K and anr) is bad in law and directions for directing the respondents to make immediate arrangements for the

translating facility with respondent no.2 with a further direction to respondent no.2 to take back the application of the petitioner returned on

06.10.1989 and supply the English translation copies of the Urdu documents as prayed for by the petitioner, and not to list for hearing the Criminal

Reference No. 53 of 1987 till the request for English translation of the Urdu documents is supplied to the petitioner.

2. After the said direction the writ petition was listed before the Full Bench on 10.11.2000 which was adjourned to 04.12.2000 and thereafter the

matter was listed for hearing on 14.03.2016.

3. The case of the writ petitioner is that a criminal case was registered against the petitioner and others by a private individual before the Chief

Judicial Magistrate Court at Kathua in Criminal Case File No. 292 of 1984 for offences under Sections 147/427/454/34/35 RPC. The said

private complaint filed in July, 1984 before the Chief Judicial Magistrate Kathua, was sent for inquiry/investigation under Section 202 Cr.P.C to

Police Station Kathua and after inquiry, a report was submitted before the learned Chief Judicial Magistrate in January 1985, who took cognizance

of the complaint and charge was framed under Sections 448/427/147 RPC and issued process to the accused persons and they furnished the

requisite bail bonds/security. On 09.04.1987 the learned Chief Judicial Magistrate passed an order closing the prosecution evidence. Against the

said order closing the prosecution evidence, the complainant filed Criminal Revision No. 5/1987 before the learned Sessions Judge at Kathua who

made reference order on 31.08.1987 to this Court pursuant to which the record of Criminal Revision along with the record of criminal case File

No. 292/1984 was received by the Registry of this Court, which was registered as Criminal Reference No. 53 of 1987 and notice was issued to

the accused persons including the petitioner.

4. The petitioner appeared through his counsel in the Criminal Reference case and his counsel filed an application before respondent no.2 on

29.09.1989, seeking supply of English translation copies of the statements of all the witnesses as also of all the orders recorded in Urdu (Person

Script) by the trial Court in the above case on payment of usual translation charges. The said application was filed under Rule 148 of the J&K High

Court Rules, 1975, stating that if the counsel arguing a case is not well versed with Urdu, he can apply for translation copies. The said application

dated 29.09.1989 was returned by the 2nd respondent on 06.10.1989 by stating as follows:-

a) Registry's Desk-Noted. October 6, 1989 on herein-Petnr's Appln dated Sept. 29, 1989.

In view of the law laid down by the Hon'ble Division bench of this Court in Writ Petition No. 7 of 1987 entitled Inderjit Gupta v. State reported

as 1988 KLJ at page 90. The (sic.) applicant is not entitled to translated copy.

Hence submitted for orders.

6.10.89

Sd/-

(Himmat Singh)

Copyist"".

b) Registry's Supervisory Remarks/order dated Oct. 6, 1989 IBID

After perusing the report of office, the application be returned to the petitioner.

6.10.89

Sd/-

Deputy Registrar

High Court of J&K,

Jammu.

5. Since the Division Bench judgment is relied on by the 2nd respondent, this writ petition is filed seeking declaration to declare the said judgment

as bad in law with consequential reliefs.

6. The principal contention of the learned counsel appearing for the petitioner in this writ petition is that Rule 148 of the J&K High Court Rule,

1975 was not properly appreciated by the Division Bench while deciding the case reported in 1988 KLJ 90 (Inderjit Gupta v. State of J&K and

anr) and the Division Bench has also failed to apply Section 145 of the Constitution of Jammu and Kashmir, which declares that English shall

continue as official language of the State including of the High Court of Jammu and Kashmir. The learned counsel strenuously argued that it is a

constitutional right of the petitioner to get the copies of the documents supplied in English version as the counsel appearing for the petitioner is not

well versed in Urdu and High Court Rules also mandates the Registry to issue copies of the translated versions of the documents on payment of

charges and the Division Bench totally in mis-reading of the said provisions rendered the judgment which being shown as reason for rejection of the

application for supply of the translated copies, the petitioner is entitled to file the writ petition seeking such relief.

7. The learned counsel also submitted that the cause of action for filing the writ petition was challenging the order in earlier writ petition for the

reason stated by the Registry at that time due to non-availability of the translators. He also stated that during the pendency of this writ petition a

Public Interest Litigation was filed bearing No. 20/2012 by one Pawan Kumar Manni, contending that criminal appeals filed by the accused

persons are not disposed of on account of non-availability of English version of documents, and the appeals filed by the accused persons were

pending from 1999 and the reason assigned was that no post of Translator has been sanctioned by the State. A Division bench of this Court

directed the respondent-State to show cause as to why directions be not issued for creation of posts of Translators from Urdu to English and to

expedite the dream of constitutional framers for speedy justice under Article 21 of the Constitution of India. The said direction was issued on

03.08.2012 and thereafter on 28.08.2012 the counsels who appeared for the State as well as for the writ petitioner in that case, suggested that in

order to expedite the hearing of appeals the Registrar General may appoint adequate number of Translators on adhoc basis, and the Division

Bench accepted the suggestion as meritorious and directed the State to provide financial assistance for such adhoc appointment. Again when the

matter was listed on 31.12.2012, Government Order No. 4138-LD(A) of 2012 dated 27.12.2010 was produced sanctioning seven posts of

Translators (Urdu to English) and recording the sanction of the said posts the Division Bench disposed of the writ petition with observations that

appropriate steps be taken for filling up of the sanctioned posts.

8. The learned counsel appearing for the petitioner, relying on the said PIL proceedings and the sanction order granted, submitted that there is no

impediment for giving the English version of the documents and for keeping the record straight the judgment of the Division Bench reported in 1988

KLJ 90 (Inderjit Gupta v. State) is required to be set aside.

9. Heard Mr. A.V. Gupta, learned senior counsel appearing for respondent No.2 as well as Mrs. Seema Shekhar, learned Sr. AAG for the 1st

respondent.

10. The prayer made in the writ petition other than the first portion of the prayer, seeking to declare the judgment of the Division Bench as invalid,

are able to be complied with by the 2nd respondent as the Government has created seven posts of translators by Government Order No.4138-

LD(A) of 2012 dated 27.12.2010 pursuant to the directions issued by the Division Bench of this Court in WPIL No.20/2012. The said fact is

recorded in the final order passed in the said WPIL on 31.12.2012.

11. Insofar as the 1st prayer seeking to declare the judgment of the Division Bench as invalid is concerned, Rule 148 of the Jammu & Kashmir

High Court Rules, 1975 is relevant which reads thus:-

148. Any person entitled to obtain copy of a Judicial Record may apply for a translation thereof and he will be charged for the translation

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

12. The said rule even though was considered by the Division Bench, for the sake of clarity of binding precedent, we are duty bound to declare

that as per the said rule, if a person is applying for translated copies of the documents, particularly in English, which being official language of the

High Court in terms of Section 145 of the Constitution of Jammu and Kashmir, which states that ""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"", the said

person is entitled to get the translated copies of the documents. Even though, Urdu language is declared as official language of the State, the English

language is being continuously used for all official purposes in the State in terms of Section 145 of the Constitution of Jammu & Kashmir.

13. It is also an admitted fact that the proceeding in the High Court are conducted in English language even though, an option is mentioned in Rule

57(2) of the Jammu & Kashmir High Court Rules, 1975 stating that all judgments and orders shall be written, recorded, drawn and signed either in

English or in Urdu. The High Court has to make use of English language to write judgments and orders. All the proceedings including filing,

maintaining records, arguments and rendering judgments are in English language. The said position being not in dispute. So long as the

person/counsel arguing the case is not well versed with the language used in the documents, he is entitled to get translated copies of the documents

in English language. The Advocate or the party, who is arguing the case, must be in a position to understand and put forth his point of view to the

Court concerned for which he is required to get the documents translated into the language known to him or with which he is well versed. Access

to justice includes extending all facilities to argue the case without any difficulty either to an Advocate or to a litigant. The English being official

language continuously followed in this Court for all purposes, the Registry was not right in rejecting the application filed by the petitioner, which is in

conflict with Rule 148 of the J&K High Court Rules, 1975.

14. The finding of the Division Bench in the earlier proceedings due to non-availability of translator for supply of translated copy of the documents,

was erroneous and cannot be approved. Similarly the finding that no litigant has a right to use the Registry as its sub-office and to get the translation

prepared by it of those documents which are in Court language so as to prepare his case and it will be unfair on the part of the litigants, if they

depend on the Registry to prepare their cases, is also unwarranted. The documents were sought by the party, who was not well versed with the

language to understand the case based on documents. This Court being a Court of equity and justice, cannot deny translated copies of the

documents. If the Division Bench judgment is allowed to stand, the registry will be precluded from giving translated copy of the documents even if

charges are paid by the applicant. Hence the findings/decision made by the Division Bench in the judgment reported in 1988 KLJ 90 (Inderjit

Gupta v. State of J&K and anr.) is overruled as the same is in violation of Rule 148 of the Jammu and Kashmir High Court Rules, 1975.

15. In fine, the second respondent is directed to issue the translated copy of the documents, which the petitioner has sought for on re-submission of

the application by the petitioner. The 2nd respondent shall issue the English translated copy of the documents, which the petitioner is seeking after

collecting necessary charges applicable for the issue of translated copies. The 2nd respondent shall handover the copies, as stated supra, within

four weeks from the date of re-submission of the application by the petitioner and payment of charges.

16. No costs.