

**(2020) 08 J&K CK 0008**

**In the Jammu And Kashmir High Court**

**Case No : Other Writ Petition No. 1475 Of 2014**

Vikas Jotshi

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

**Date of Decision : 20-08-2020**

**Acts Referred:**

Constitution Of India, 1950 — Article 14, 21

**Citation : (2020) 08 J&K CK 0008**

**Hon'ble Judges : Vinod Chatterji Koul, J**

**Bench : Single Bench**

**Advocate : R. Koul, S.S. Nanda**

**Final Decision : Disposed Off**

## **Judgement**

Vinod Chatterji Koul, J

1. Petitioner seeks a direction to respondents to finalize his case for migrant registration in accordance with rules governing the field on the basis of the documents submitted by him and also grant him all benefits as are being given to registered migrants.

2. The case set up by petitioner is that due to turmoil in Kashmir valley in the wake of militancy, large scale migration of minority community took place, in which family of petitioner also migrated along with his father, who was working in Ordinance Depot, to Chandigarh. After his father's death, petitioner along with his family shifted back to Jammu. The minority community, as per the orders issued by the Government from time to time, is entitled to cash assistance for which one is required to be registered as a migrant.

3. It is also stated in writ petition on hand that father of petitioner did not get himself registered. However, petitioner applied for registration and as per the procedure, his application was required to be verified. The matter was taken up with Deputy Commissioner, Srinagar, for verification. The police agencies, after verification, vide communication dated 10.02.2009 informed respondent No.2

about residence of petitioner and his family at Srinagar. Spot verification was also conducted and report was submitted by Zonal Officer, Relief Organization, Bhagwati Nagar, Jammu, vide letter dated 20.03.2009, to Tehsildar Registration, Relief Organization, Jammu.

4. Petitioner also avers in writ petition that he was called upon to submit certain certificates, which he did. Zonal Officer vide his communication dated 12.07.2014 recommended registration of petitioner as migrant under relief category. However, despite having fulfilled necessary requirements, respondents are stated to have not finalized the case of petitioner. It is also asserted that petitioner is a genuine migrant, being affected by militancy in the Valley and, therefore, he is required to be given similar treatment as has been given to similarly placed persons. Petitioner claims that he had submitted reminders from time to time for settlement of his case. Inaction on the part of respondents to register petitioner as migrant is violative of Article 14 and 21 of the Constitution of India.

5. Petitioner has placed on record copies of: communication addressed by Deputy Commissioner (R) Relief Organization, Jammu to Deputy Commissioner, Srinagar; communication addressed by Additional Director General, Police CID J&K, Jammu, to Assistant Commissioner (HQ), Relief Organization, Jammu, regarding verification of petitioner; the report of Director General of Police, CID, J&K Jammu, in which it has been reported that father of petitioner, namely, Bal Krishenson of Suraj Bal Jotshi, was working in Ordinance Department, B. B. Cantt, and used to supply medicines to the Army. Petitioner, at that time, was a minor of 8-9 years when his family migrated to Jammu in early 1990 under militant threat following mass migration of KPs and after migration, family including petitioner went to Chandigarh, where his father was posted in Ordinance Cable Factory. After death of his father, petitioner came back to Jammu and since 2004 he is residing at Bhagwati Nagar, Jammu, in a rented accommodation along with his wife, son and a daughter. Spot verification was also conducted by the Zonal Officer, Relief Organization, Bhagwati Nagar, Jammu.

6. Respondents in their objections have insisted that on eruption of militancy in the erstwhile State of Jammu and Kashmir, migration took place from Kashmir Valley in early 1990s and the Government devised a policy to register migrants in Jammu with Commissioner, Relief (Migrants), so as to address their problem of rehabilitation and relief. The family of petitioner migrated to Chandigarh and did not register themselves with Commissioner Relief (M) till 2007. When father of petitioner died, petitioner returned back to Jammu. Respondents also insist petitioner's claim was examined in light of latest policy and the same is not maintainable as the Government in a meeting held on 22.02.2011 under the chairmanship of Revenue Minister discussed the issue and imposed a blanket ban on fresh registration. The step was taken to check illegal registration for simply getting free ration and cash relief as granted by the Government of India and at present no fresh registration is permissible in terms of the said policy decision

taken in the said meeting as circulated on 24.03.2011. It is averred that whosoever was a genuine migrant has been registered in early 1990's and nobody can seek registration after 17 years of migration and that father of petitioner was serving in the Ordinance Depot and being an employee was not entitled for the grant of relief and for that reason the father of the petitioner did not get himself registered as a migrant. His case was sent for verification and details were collected. However, in view of the decision taken by the State Government, no fresh registration can be granted, hence the plea of the petitioner cannot be entertained.

7. With the consent of learned counsel for the parties, this writ petition is admitted to hearing and taken up for final disposal.

8. Heard learned counsel for the parties.

9. First and foremost, the undisputed facts in this case are: that petitioner belongs to minority community, which, in view of eruption of militancy in Kashmir Valley, migrated from Kashmir Valley in the year 1990; father of petitioner was employee in the Ordinance Depot and he along with his family also migrated from Kashmir Valley and shifted to Chandigarh, where he was posted; petitioner at that time was a minor of the age of 8-9 years as is evident from the certificate and the report of the police. It is also not in dispute that petitioner and his family are genuine migrants, having migrated from Kashmir Valley in the year 1990. Respondents have not disputed their genuineness, rather, it is admitted by them that petitioner and his family had migrated from Kashmir valley due to eruption of militancy. It is also admitted that the genuine migrants who were not employees are being provided cash assistance and free ration. It is also not in dispute that even the employees who have shifted from Kashmir valley due to eruption of militancy, have been registered as migrants, though, employees are not entitled to cash assistance or free ration. This fact is also not in dispute that after having migrated from Kashmir valley in 1990, father of petitioner had shifted to Chandigarh and he did not get himself or his family registered as migrants. It is also admitted that after death of his father, petitioner shifted to Jammu and at present, he is residing at Bhagwati Nagar, Jammu. Insofar as petitioner is concerned, it is not the case of respondents that he is not a genuine migrant or he is a Government employee. Their case is that petitioner, after having migrated in the year 1990, did not get himself registered as migrant at that time, therefore, after a period of 17 years he cannot be registered as migrant. At the time of migration, petitioner was a minor and was residing with his father who was a Government employee and did not get himself registered as migrant, albeit, a genuine migrant. Petitioner, after death of his father, returned to Jammu and applied for registration. Despite having completed all formalities, he has not been registered as migrant. This fact is not in dispute that the status of migrant has been given to all those persons, who had migrated from Kashmir due to militancy.

10. Respondents state that the Government of J&K, in a meeting held on

22.02.2011 under the chairmanship of Revenue Minister, discussed the issue regarding the registration of migrants and imposed blanket ban on fresh registration. Respondents also maintain that such blanket ban has been imposed to check the illegal registration to simply get free ration and cash relief as granted by the Government of India and it is because of that ban that no fresh registration is permissible in terms of the policy decision taken in the meeting held on 22.02.2011 and circulated on 24.03.2011. Perusal of the minutes of meeting reveals that the ban has been imposed on fresh registration to discourage further migration by having relook at the policy that is in place. For ready reference, minutes of meeting are reproduced as under:

"Government of Jammu and Kashmir Civil Secretariat: Revenue Department

Minutes of Meeting held on 22-2-2011, under the Chairmanship of Hon'ble Revenue Minister in his Office Chambers, to deliberate upon the issue regarding registration, as Migrants.

Besides the Hon'ble Minister of State for Revenue, the following officers also participated in the meeting:-

1. Principal Secretary to Government, Home Department.
2. Secretary to Government, Revenue Department.
3. Relief and Rehabilitation Commissioner, Migrants.
4. Inspector General of Police, CID, J&K Jammu.

In Attendance:-

1. Spl. Asstt to Hon'ble Revenue Minister/HMOS Revenue.
2. Deputy Secretary to Government, Revenue Department.

The Secretary Revenue welcomed the participants and gave a brief about the issues, relating to registration, as migrants, of such families who had migrated/ would migrate from Kashmir Valley on account of threat to their lives for having assisted the Security Forces or surrendered before them as also that related to providing of relief to such families who have/would migrated/migrate from their original places of residence in Kashmir Valley because of facing threat from the militants on account of having participated in the election process.

The text of the various Government Orders issued from time to time in pursuance of various Cabinet decisions, regarding procedure to be followed for registration, as migrants, was read for the information of the Chair as well as the participants. It was highlighted by the Secretary Revenue that a clear cut mechanism regarding procedure to be followed for registration of families, as migrants, was no doubt in place and was being followed at present, however, in view of the improvement of the situation in Kashmir Valley and efforts being made by the Government to ensure safe return of the migrants, there was a need to discourage further migration by having re-look at the policy that is in

place. It was suggested that the better course would be to put a blanket ban on further registrations and allowing them in respect of those cases only where a member of the family, seeking such migration, had either been killed or got injured in a militancy related incident subject further to verification of CID and scrutinization by the Screening Committee constituted for the purpose.

The Chair was apprised about the decision taken in a meeting of the Screening Committee, under the Chairmanship of Divisional Commissioner, Jammu, wherein it has been decided that fresh registration should not be encouraged and allowed only in those cases where there was a case of militancy killing. All the participants agreed with the proposition of Secretary Revenue and in one voice concurred with the idea that the fresh registration should be discouraged. The issue regarding framing of rehabilitation package for Jammu Migrants on the pattern of Kashmiri Migrants was also discussed.

After detailed deliberations, the following decisions were taken:-

1. The relief and other assistance required by such families who have migrated/ would migrate from Kashmir Valley on account of threat to their lives for having assisted the Security Forces or surrendered before them shall be provided by Home Department, exclusively.
2. In so far as registration, as migrant, as also providing of relief to the Kashmiri Migrant families who have migrated/would migrate from their original places of residence in Kashmir Valley because of facing threat from militants on account of having participated in election process was concerned, the same shall as far as possible be not allowed. However, in respect of those cases where one of the family members gets killed or injured in a militancy related incident and the family as a sequel to this migrates to a safer place, the registration case in respect of such families shall be processed in accordance with the terms and conditions laid down in Government Order No. REV/MR/59 of 1996 dated: 25-3-1996.
3. As regards Jammu Migrants, Relief and Rehabilitation Commissioner, Migrants was directed to prepare a comprehensive package, on the pattern of Kashmiri Migrants, for their return to their native places for submission to Government of India for its consideration.

The meeting ended with vote of thanks to the Chair.

Sd/=

Secretary to Government,

Revenue Department,

No: REV/MR/02/2000-IIIDated:24-03-2011"

11. I have considered the arguments advanced by learned counsel for parties and gone through the record as well as minutes of meeting, on the basis whereof it is

argued by learned counsel for respondents that petitioner is not entitled to registration. Glimpse of aforesaid policy would unequivocally divulge that it has been framed to discourage fresh migration from Kashmir Valley and it is not aimed at precluding and interdicting registration of a person who had already migrated from Kashmir valley and is a genuine migrant and remained unregistered for one or the other reason.

12. Having regard to what has been discussed above and in view of the facts and circumstances of the case, this writ petition is disposed of with a direction to respondent No.2 to consider and decide the representation/application of petitioner, being a genuine migrant, having migrated from Kashmir valley along with his father in the year 1990, for registration as migrant, in accordance with rules, within a period of two months from the date certified copy of this order along with complete set of paper book of this writ petition is made available to respondent no.2 by petitioner.