

Section X

IN THE SUPREME COURT OF INDIA

Civil/CRL/Appellate/Original Jurisdiction
Special Leave Petition (Civil/Crl.) No. of 2020
Civil/Criminal/Appeal/Writ Petition Diary No. 10817 of 2020
Review Civil/Criminal/Misc. Petition No. of 2020

IN THE MATTER OF:
FOUNDATION FOR MEDIA PROFESSIONALS ... PETITIONER(S)

VERSUS

UNION TERRITORY OF JAMMU
AND KASHMIR AND ANR. RESPONDENTS

INDEX OF PAPERS

Sr. No.	Particulars	Copies	Court Fees
1.	REPLY ON BEHALF OF RESPONDENT NO. 1 (UNION TERRITORY OF JAMMU AND KASHMIR).		
2.	VAKALATNAMA		
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Total Rs.

All copies are correct

Filed by:

Filed on .04.2020

Shashi Juneja
Addl. Standing Counsel
U.T. of Jammu and Kashmir
21, Poorvi Apartments,
Vasant Vihar, New Delhi-110057
+91 997 188 7457

Pinky Behera
AOR
Code 2108
for
Respondent No.1
9868619947

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) DIARY No. 10817/2020**

IN THE MATTER OF:

**FOUNDATION FOR MEDIA
PROFESSIONALS**

.... PETITIONER

VERSUS

**UNION TERRITORY OF JAMMU
AND KASHMIR AND ANR.**

.... RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT
NO. 1 (UNION TERRITORY OF JAMMU
AND KASHMIR)**

Advocate for the Respondent :

IN THE MATTER OF:
FOUNDATION FOR MEDIA
PROFESSIONALS **PETITIONER**

VERSUS

UNION TERRITORY OF JAMMU
AND KASHMIR AND ANR. **RESPONDENTS**

SL.NO	PARTICULARS	P
1	REPLY ON BEHALF OF RESPONDENT NO. 1 (UNION TERRITORY OF JAMMU AND KASHMIR).	1-29
2	ANNEXURE R1/1 COPY OF THE FAKE ROP DATED 09.04.2020 ALONG WITH ORIGINAL ROP.	30-31
3	VAKALATNAMA	32

NEW DELHI
DATED: .04.2020

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) DIARY No. 10817/2020**

IN THE MATTER OF:

FOUNDATION FOR MEDIA

PROFESSIONALS

.... PETITIONER

VERSUS

**UNION TERRITORY OF JAMMU
AND KASHMIR AND ANR.**

.... RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO. 1 (UNION
TERRITORY OF JAMMU AND KASHMIR)**

MOST RESPECTFULLY SHOWETH:

I, Shaleen Kabra, son of Sh. Ram Prasad Kabra, aged about 51 years, presently posted as Principal Secretary to the Government, Home Department, Union Territory of J&K, do hereby submit and state as under:

1. That in my official capacity as mentioned above, am well conversant with the facts of the present case as derived from official records and as such competent to submit the instant reply.

2. At the outset, it is submitted that the statements and averments raised in the present Petition/Application under reply are denied unless specifically admitted herein below.

3. It is submitted that the answering Respondent is not giving para-wise reply but a consolidated reply is being filed, in response to all the writ Petitions as well as to the Interlocutory Application(s).

4. It is further submitted that since similar/identical issues have been raised by the Petitioners in Private Schools Association, J&K vs. U T of J&K, Diary No. 10904/2020 and Soayib Qureshi vs. UT of J&K, Diary no. 10875/2020, the answering Respondent craves leave of this Hon'ble Court to adopt present reply in respect of these Petitions as well. This reply may be treated as reply in those petitions also.

5. It is submitted that the present writ Petition has been preferred by the respective Petitioners, *inter alia*, assailing Government Order No. Home-21 (TSTS) of 2020 dated 26.03.2020, which order, it is respectfully submitted no longer exists due to efflux of time (as it was to remain in force up to 03.04.2020), rendering the Petition infructuous. Sequel to the said order, Government Order No. Home-22 (TSTS) of 2020, dated 03.04.2020 came to be issued by the answering Respondent which has been impugned by the Petitioner by

way of Interlocutory Application and in Diary No. 10904/2020 and Diary no. 10875/2020. It is submitted that the said order has also ceased to be in force as Government Order No. home-28 (TSTS) of 2020, dated 15.04.2020 came to be issued.

6. It is submitted that common prayer in all the three Petitions is issuance of a writ/order/direction *inter-alia* praying for restoration of internet speed in mobile data services to 4G in the Union Territory of Jammu and Kashmir.

7. It is respectfully submitted that various issues which have arisen due to outbreak of COVID-19 pandemic including, the issue of restoration of 4G internet speed are being considered by the Division Bench of the Hon'ble High Court headed by the Chief Justice in WP(C) PIL no. 4/2020 titled Azra Usmail vs. Union Territory of Jammu and Kashmir c/w WP(C) PIL no. 5/2020 (Through Video Conference from Srinagar and Jammu Wings respectively). It is submitted that pursuant to and in terms of order dated 16.04.2020, passed by the Hon'ble High Court status report has been filed by the answering Respondent.

8. It is submitted that the contentions raised by the Petitioners in respect of an alleged deprivation of access *inter alia*, to education, health care facilities/updates, and to justice

itself with 2G internet speed are incorrect. It is submitted that the administration is taking all possible steps to ensure that minimum impact of Covid-19 situation is felt. It is submitted that the efforts made by the administration are placed before the Hon'ble High Court of Jammu and Kashmir, which, vide its order dated 30.03.2020 in WP(C) no.4/2020 and 5/2020 (supra) was pleased to appreciate the efforts of the Union Territory Administration towards containment of spread of COVID-19 infection and its treatment. The Hon'ble High Court, *inter alia*, observed as under :

"Before parting with the order today, this court places on record its deep appreciation of the manner in which the authorities in the Union Territory of Jammu and Kashmir as well as Ladakh are addressing the current crisis. It is noteworthy that not a single complaint on the functioning on any aspect of the situation and the matter has been made by any counsel who are present in these hearings either in Jammu or from Srinagar or elsewhere. All the counsels have highly commended the manner in which the crisis is being addressed by the Deputy Commissioners on the ground.

We hereby record our appreciation of the handling of this unprecedented and difficult situation of ensuring the lockdown as also the manner in which the whole issue of containment of the spread of COVID-19 infection and its treatment is being addressed by the administration"

It is, thus, clear that the Union Territory administration is taking all possible steps to ensure that minimum inconvenience is caused to citizens while keeping the vital

issues of national security and internal security as a paramount consideration.

Without prejudice to the above,

PRELIMINARY SUBMISSIONS:

9. It is most respectfully submitted that the answering Respondent is conscious of its constitutional and statutory obligations and has been exercising powers under the relevant provisions of 'The Indian Telegraph Act, 1885' and 'The Temporary Suspension of Telecom Services(Public Emergency or Public Safety)Rules,2017. The orders issued, which are placed in public domain, are not only in consonance with the statutory mandate but also in conformity with the directions/guidelines laid down by this Hon'ble Court while imposing restrictions *inter-alia*, on mobile data/internet services. It is submitted that though the aforesaid Rules contain safeguards against misuse/abuse of exercise of power there under, such Orders imposing restrictions are reviewed by the Review Committee, headed by the Chief Secretary of UT of J&K, within seven working days of the previous review, in terms of the requirements under Rule 2(6) of the Rules *ibid*, as directed by this Hon'ble Court, wherein due consideration is accorded to the inputs furnished by the law enforcement/intelligence agencies, to independently come to

a conclusion whether there indeed exists a public safety interest/situation analogous thereto, the guiding principles however being the principle of proportionality, the extent and reasonability of restriction, available alternatives, if any, and the incitement to any offence /security/sovereignty and integrity of India being the end intended to be achieved. It is ensured that the restriction on access to internet is commensurate to the gravity of situation and accords with provisions of section 5 of the Telegraph Act.

10. It is pertinent to mention that the prayers prayed for by the petitioners and the present affidavit needs to be appreciated in light of the fact that since 1990, 41866 persons have lost their lives in 71038 incidents throughout the erstwhile State of J&K. This includes 14038 civilians, 5292 personnel of security forces and 22536 terrorists. These figures depict the nuances and emphasize the unavoidable requirement of reasonable restrictions given the very peculiar geo-political position of Jammu & Kashmir and its geographical proximity with Pakistan.

11. It is submitted that this Hon'ble Court in Anuradha Bhasin was dealing with, inter alia, the internet services of all kinds that were temporarily suspended in the erstwhile State of J&K, post changes in J&K in view of the constitutional

changes. It is respectfully submitted that the temporary suspension of telecom services at that time was necessitated to prevent loss of human life and property and maintain law and order as well as internal security, as there were well founded apprehensions of misuse of internet for propagation of terror activities and incitement by circulation of inflammatory material– particularly fake videos, fake photos etc. and co-ordination of activities inimical to the security of the State and public order. It is submitted that after the judgment of this Hon'ble Court in Anuradha Bhasin, various communication mediums, including internet, have been restored in a calibrated and gradual manner, which, in itself, amply demonstrates application of mind to the ground situation and consideration of ever-changing circumstances.

12. It is submitted that the Petitioner himself admits that various orders have been passed gradually lifting the restrictions not only in the movements, lifting of Section 144 Orders, but also commencing mobile phone services [initially post-paid customers and thereafter for pre-paid customers] and lifting of restrictions on internet access in the Union Territory of Jammu and Kashmir – from initial access being restricted to white-listed sites (increased progressively) to lifting of all restrictions on social media on 04.03.2020, which clearly shows that the answering Respondent is alive to the

situation and restrictions on internet speed only are imposed when it becomes imperative given the violent history of the UT for being on the radar of the terrorists. It is pertinent to mention that the need-based restrictions were/are reasonable, had nexus with the purpose (to pre-empt inflammation of passions, incitement to mass violence, rumour mongering, Security of the State etc.) and were eased/withdrawn whenever the situation so permitted since the authorities concerned with the maintenance of public order are monitoring the situation closely and regularly.

13. It is submitted that the right to access the internet is not a fundamental right and thus the type and breadth of access for exercising the right to freedom of speech and expression under Article 19(1)(a) and/or to carry on any trade or business under Article 19(1)(g) of the Constitution of India (CoI) through the medium of internet can be curtailed. It is submitted that the sovereignty and integrity of India, the security of the State, public order or incitement to an offence, would certainly warrant curtailing the freedom of speech and expression, under Article 19(2). Likewise, the right to carry on any trade or business can be restricted in the interest of general public under Article 19(6) of our Constitution, which, it is submitted would include public order, public health, public security and objects mentioned in the

Directive Principles of State Policy. It is submitted that these rights under Article 19(1) (a) and (g) cannot be said to be curtailed by reduction in the speed of the internet, as has been alleged by the Petitioner in the Petition/Application under reply.

14. It is submitted that a very reasonable quantum of restrictions have been imposed by way of reducing the speed of internet which is not only least restrictive but also most appropriate and has reasonable nexus with object/purpose sought to be achieved by the order, i.e. protecting the sovereignty, integrity, security of State, being in the interest of general public while ensuring that rights and interests of the citizens are not adversely affected thereby.

15. It is submitted that the decision as to whether controlled access to the internet is still warranted depends upon the assessment of ground situation and hence orders for a very limited duration are passed and they are subjected to strict review. It is respectfully submitted that the world is fighting a war against an unprecedented pandemic which everyone hopes will be over sooner than later but unfortunately the UT of J&K is also on a continuous war with terrorists - aided, abetted and encouraged from across the border. It is to be noted that post August 2019 constitutional

developments, Pakistan handlers, either directly or indirectly, have increased activity on Social media intending to and aiming at disturbance of peace in the region , inciting violence and abetting terror activities. Many hash-tags are being used by Pakistani handles to glorify Pakistan Army and terror outfits/terrorists and portray them as "fighters" for Kashmir's "struggle". Shadow handles, believed to have been "inspired" by/or at the behest of Pakistan Army try to allure people from Kashmir and living outside the country, to organize violent protests and rallies at their respective places and also participate in social media campaigns to further their anti-India propaganda. Current discourses of social media campaigns infer that Pak handles are aiming to incite violence amongst College and University students. The increase in internet speed is verily apprehended to lead to swift uploading and posting of provocative videos and other heavy data files. High speed internet services (4G) decrease the time of circulation of various photographs, videos, propaganda audios and hence enable the associated content to go viral, with the reaction time of law enforcement agencies to such situations decreasing. Various Pakistan based terror outfits are leaving no stone unturned to exploit the present situation as seen by recent infiltration attempts in handling of which many personnel of security forces have lost their lives.

16. It is submitted that from 05.08.2019 to 25.04.2020, **108** terrorist related incidents took place in the UT of JK. **99** Incidents were reported from Kashmir Province and **09** from Jammu province. **30** civilians lost their lives, while 114 civilians were injured in terrorist related incidents. **20** Security forces personnel were martyred and **54** SF personnel were injured. **76 terrorists were killed** apart from arrest of 132 terrorists/ suspects.

17. It is submitted that misuse of data services, applications like WhatsApp and Facebook for mobilizing crowds by anti-national elements has the potential to cause large scale violence, disturb public order and indeed threaten the security of the country. It is submitted that the administrative authorities concerned are the best suited to assess and handle the situation depending upon the peculiar needs and facts brought within their special knowledge. It is submitted that when around 500 villagers gathered to attend funeral of a terrorist a few days back, defying the lock-down [which was imposed pan India], throwing social-distancing norms to the wind, circulation of photographs of terrorists of proscribed / prohibited terrorist organizations, on social media networking sites to provoke and mislead the public in general and the youth in particular and cause disaffection

against the country and such like instances, it becomes imperative to take pre-emptive measures including, restrictions on access to internet, taking into account matters of common knowledge, history/past experience, proclivity of the anti-social elements and for furthering the social interest and material progress of the people as a whole.

18. It is submitted that advisories/steps taken against the misuse of mobile data services which are prevalent in other parts of the country may not be practical and definitely not suffice in case of J&K. For instance, umpteen rumours relating to number of positive COVID-19 cases/deaths, creating chaos and panic; health related fake news of prominent people in Jammu & Kashmir like that of Chairman, All Party Hurriyat, Syed Ali Shah Geelani, in whose case a route plan was also mentioned guiding general public on how to reach Eidgah, Srinagar in the eventuality of his demise; shutdown call by JKLF on the eve of death anniversary of Mohd. Maqbool Bhat and Afzal Guru; to observe Republic Day as black day; circulation on social media particularly in Whatsapp groups showing POK flag atop Clock Tower (Ghanta Ghar), Lal Chowk, Srinagar and very recently, religious preachers from Pakistan had urged people via social media to recite Azan in Masjids during midnight and on viewing this video, people across the valley recited Azan in different

Masjids, which created panic and law and order situation, forcing the police in Chari-I-Sharif area to use tear-smoke munitions to disburse the gathering, are detrimental to the security and sovereignty of the nation as well.

19. It is submitted that even when internet services were restored only with white-listed URLs, it was found that miscreants were using different VPNs but because of low speed mobile data services, were not able to upload files of heavy data containing incriminating and other objectionable videos. Now that the restrictions on use of social media have been eased, if speed is not limited to 2G, the high speed internet will enable the spread of any fake news/rumors and transfer of heavy data files (audio/video files) will become prevalent which may be utilized by terror outfits for incitement as also in planning attacks. Pakistan based terrorism handlers like TRF and TMI, instigating youth to join terrorism, are using messaging applications to communicate as also to raise the morale of terrorists; however 2G mobile data services considerably restrict the use of such Applications. Further, it is submitted that VOIP services/ encrypted messaging, etc. that are utilized for infiltration via Line of Control as also communication from across the border, depend upon high speed internet.

20. It is submitted that restoration of 4G mobile data services will substantially increase the use of social media and other online platforms in uploading/downloading of videos and other propaganda material and their fast circulation, with resultant deterioration in law and order situation in Kashmir Valley. For any upload/ download of a typically heavy data file, the present speed restrictions increase the time taken or lead to failure, frustrating the evil designs of terrorists.

21. It is submitted that this Hon'ble Court is pleased to accept in *Anuradha Bhasin (supra)* that the internet could be used to propagate terrorism thereby challenging the sovereignty and integrity of India and was also pleased to recognise that 'modern terrorism relies heavily on the internet. Operations on the internet do not require substantial expenditure and are not traceable easily. The internet is being used to support fallacious proxy wars by raising money, recruiting and spreading propaganda/ideologies. The prevalence of the internet provides an easy inroad to young impressionable minds'.

22. That this Hon'ble Court while recognising that the internet is a powerful and effective tool for spreading propaganda was further pleased to quote Gregory S. McNeal, Professor of Law and Public Policy, Pepperdine University,

“Terrorist organisations have also begun to employ websites as a form of information warfare. Their websites can disperse inaccurate information that has far-reaching consequences. Because internet postings are not regulated sources of news, they can reflect any viewpoint, truthful or not. Thus, readers tend to consider internet items to be fact, and stories can go unchecked for some time. Furthermore, streaming video and pictures of frightening scenes can support and magnify these news stories.”

23. It is submitted that even this Hon’ble Court has not been spared from the ill effects of habitual fake news propaganda which took place very recently and in respect of this very petition. It is submitted that an FIR no. 06/2020 dated 09.04.2020 was lodged u/s sections 465, 466 and 471 Indian Penal Code, by/at Cyber Police Station, Kashmir Zone since a fake order purporting to be a Record of Proceeding of this Hon’ble Court in this writ petition wherein it has been falsely reflected that administration of Union Territory of J&K has been ordered to take a quick review within 24 hours to restore full internet communication in the region. A copy of the fake ROP is attached herewith as **Annexure R1/1** (Page . 30-31).

24. It is submitted that very recently seven (7) FIRs under various provisions of IPC & IT Act relating to circulation of fake news in Kashmir Valley having bearing on the internal security stand filed in various police stations of the Valley.

25. It is submitted that while the rest of the world is concerned about the health of its people, the answering Respondent is constrained to deal with health, as well as, the very life of the Nation as well, since the pandemic has had absolutely no impact whatsoever on chronic anti-national activities from across the border. Rather there has been a surge in terrorist incidents, post pandemic, most recent being on 05.04.2020, in Keran sector, Kupwara where 5 security personnel were martyred having successfully foiled infiltration bid along the Line of Control by 5 terrorists and killing them.

26. It is indeed a challenge to deal with disorders/diseases of every kind. While concept of 'work from home' cannot be applicable in all sectors (viz. security forces), but where it is a possibility, efforts are being made towards that end by trying to strike a balance between preventing egregious propagandising and providing an environment conducive to exercise of fundamental rights by denizens of the UT of J&K.

27. It is submitted that as on date, in respect of Mobile data services, the internet is available at 2G speed. The post-paid sim card holders have been given access to the internet. However, in respect of pre-paid sim cards, such access is available only, after verification as per the norms applicable for post-paid connections, anywhere in the country. The Fixed-line Internet connectivity with Mac-binding, is available **without any speed related restrictions**. It is submitted that a fixed-line connection is more appropriate at a time when almost the entire world is under a lockdown and advised/constrained to stay home, to stay secured. It is **submitted that for any activity dependent on heavy network usage, the broadband and fiberinternet connectivity is available throughout the UT of J&K**. It is noteworthy that access to social media has been allowed and the white listing of the URLs has been done away with.

28. It is submitted that while there is no one size that fits all, the answering Respondent tries to explore other feasible measures as this Hon'ble Court had suggested e.g. blocking only social media services but it is only when the authorities are left with no other alternative that can effectively deal with the situation that such restrictions are imposed. It is submitted that at times it becomes well-nigh

impossible to even confine the restrictions to a particular area, given the chorography geography and topography of Kashmir division.

29. It is most respectfully submitted that iteration in the orders, of words like 'overall security situation' and 'reports of law enforcement agencies' far from being vague language as alleged by the Petitioner have well-defined meaning and are perspicuous. It is submitted that any particular mention of any incident or any further elaboration defeats the very object of the restrictions. It is submitted that cross- border terrorism and violent activities carried out by the banned terror outfits like JeM, LeT, HM, operating with the external support are too well known. New outfits are being launched, like TRF and TMI, instigating the youth to join terrorism and there has been a spurt in terror activities in the last fortnight. The terror modules operating within the UTs and handlers from across the border aid and incite people by transmission of fake news and targeted messages through use of internet to propagate terrorism, co-ordinate and plan terror attacks.

30. It is submitted that apprehensions of the Petitioner that medical professionals and the general public are not able to access latest studies, manuals on treatment and

management of COVID-19 because of 2G internet speed is misconceived.

31. It is submitted that internet is an enabler of rights and not a right in itself and that the present 2G speed of internet does enable one to create, access, utilize and share information and knowledge. WhatsApp chatbots and health infographics can operate easily within the Low speed internet range (2G- Bandwidth). Health related and other important information regarding COVID-19, including documents and advisories issued by the Government on websites, is being accessed by over 100,000 professionals in various health facilities in J&K through fixed line High-Speed internet. The information regarding COVID-19 is also available on various social media platforms which can be easily accessed on low speed 2G internet. Various Government websites like website of WHO, Ministry of Health and Family Welfare, etc. associated with timely information flow in the form of awareness/advisories/orders can also be easily accessed at Low Speed internet. Similarly, the Applications developed by the GoI for disseminating information about COVID-19 pandemic can be easily downloaded and used over 2G internet. Fixed line Internet connectivity (broadband and optical fibre lines) without any speed related restrictions enable institutions, businesses and essential services

including hospitals to access information without any hindrance.

32. Information about lockdowns, restrictions, designated COVID red zone areas, etc is given on a regular basis through press briefings and daily bulletins which are shared with the general public through official Social media handles of the Government and its representatives and are also uploaded on its websites, which can be easily downloaded over 2G internet.

33. It is submitted that the Government and its agencies have reached out to the masses through other means of communication and connectivity as well which is witnessed by the fact that people are reporting to the authorities regarding their queries, information regarding suspected cases of infection, contact tracing etc. for which purpose, call centres/control rooms have been established and operationalized at Union Territory level, Divisional Level, District Level and at various designated health facilities across the Union Territory.

34. It is submitted that the Administration is spreading awareness among the masses through all the means of communication including Print and Electronic media, in order to keep them up to date with all the relevant information

regarding COVID-19. In this regard following efforts are being made:

- A)** Audio Spots shared by MoH&FW, GoI are being broadcasted through All India Radio, Jammu/ AIR Srinagar, 92.7 Big FM Jammu/Srinagar; 98.3 Radio Mirchi Jammu/Srinagar; 91.9 Red FM Jammu/Srinagar; FM Tadka Jammu/Srinagar; 90.40 Radio Sharda Jammu, sixteen times a day on each channel.
- B)** Video Spots shared by MoH&FW, GoI are being broadcasted daily on Satellite TV Channels & Local Cable Networks viz. Doordarshan (DD Kashmir/Jammu), News 18 Urdu, Gulistan TV, JK 24X7, Zee Salaam, Take 1 Cable, JK Channel Cable & Vaadi TV during prime time.
- c)** 1.60 lakh Pamphlets/ Handouts & 90,000 posters on Corona Virus- in English, Urdu & Hindi have been printed and being disseminated to common people for awareness and were made available at Help Desks at Jammu/Srinagar Airport, Railway Stations etc. for creating awareness among incoming passengers.
- D)** Half Hour Panel Discussions of Subject Experts (Epidemiologists, PSM Department of Govt. Medical

Colleges & Administration) are being conducted on Doordarshan (DD Kashmir/ Jammu), Satellite TV networks & Local Cable.

- E)** Advisories for general masses on COVID-19 are being published in the print media on regular basis. Advisory for Schools & Use of Masks as released by MoH&FW, GoI published in leading local news dailies across the UT of J&K. In addition, advisories are being issued by Directorate of Information & Public Relations through print & electronic media regularly.
- F)** Widest publicity given to Helpline No.-1075. J&K Covid-19 Helpline No.s 0191-2549676 (UT level Cell), 0191-2520982, 0191-2674444, 0191-2674115 (For Jammu Division), 0194-2440283 & 0194-2430581(For Kashmir Division) through print and electronic media.
- G)** Daily Press-briefings/ Media Bulletins are being released with regard to latest status of COVID-19 in the UT of J&K, DO's & DON'Ts for public are being issued for the awareness/information of general public.
- H)** Hoardings for awareness on containment of COVID-19 had been installed outside Airport & Railway Stations at various locations across the UT by District Health Societies etc.

35. It is submitted that the Government and its agencies have reached out to the masses through other means of communication and connectivity as well which is witnessed by the fact that people are reporting to the authorities regarding their queries, information regarding suspected cases of infection, contact tracing etc. for which purpose, call centres/control rooms have been established and operationalized at Union Territory level, Divisional Level, District Level and at various designated health facilities across the Union Territory.

36. It is submitted that in deference to and in compliance of guidelines issued by the Government, to prevent spread of COVID-19 and observe social distancing norms, though all educational institutions have been closed but teaching facilities are being provided to students largely through offline mode and to a very limited extent through online mode. It is submitted that a well-organized systematic plan has been put in place through lectures/ classes delivered at home through TV and Radio. It is submitted that the education department has initiated a video lecture series by lectures/resource persons. Further, Tele-classes have begun through Whatsapp groups, phone calls and phone conferencing in addition to on air programmes via television

and radio etc. to cater to student population that may not have access to computer/other infrastructure.

37. It is pertinent to mention that majority of students of class 1st to 12th are studying in 24018 government schools as compared to 5690 private schools. Further, majority of government school students do not have mobile/smart phones or computers to access the internet. Ministry of HRD Government of India has initiated some technology-based initiatives for e-learning and further proposal is being shared with it for delivering lessons on 16 DD Channels at national level. It is submitted that Tele-classes are aired through Kashmir Channel of Doordarshan Kendra, Srinagar, daily at 4:00 PM and 5:30 pm. The viewership of these tele-classes is satisfactory as most of the households have a television set and local channel is available even without cable or DTH system. The education department has requested Doordarshan authorities to provide additional time slot of one hour daily so that maximum number of classes covering maximum number of subjects are aired till physical education commences.

38. Audio classes for students of classes 9th to 12th are aired daily on private radio channel (Radio Mirchi) from 2.00 pm to 4:00 pm. Educational broadcast will be aired on All

India Radio Srinagar/Jammu from 27.04.2020. Prasar Bharti Broadcasting Corporation of India has allotted two hours time chunk daily for this purpose.

39. It is submitted that adopting a holistic approach, the education department has also launched Weekly Programme i.e. activity-based calendar to engage students in creative activities, thus catering not just to the educational needs of the students in the time of present pandemic but also their overall well-being. In addition, the department has undertaken free distribution of text books up to the elementary level, at the household of eligible students, in educational zones, both in winter and summer zones, in addition to the e-content of text books. The distribution of supplementary study material and work-sheets has been initiated to cover the uncovered learners with the support of district administration.

40. It is submitted that a number of innovative measures have been initiated by Samagra Shiksha, J&K through various applications/platforms to ensure that class-work/education may not suffer, in any manner, throughout the UT of J&K. Education is being imparted to students by conducting by way of conducting tele talks/ classes and also through various Television channels.

Wherever possible, while observing COVID-19 guidelines, text books are being provided to students at their doorsteps to facilitate learning. Lessons are being provided by subject experts on YouTube and Whatsapp.

41. It is submitted that the e-learning apps are easily downloadable and the video lectures can be browsed without any issue over 2G internet. Similarly, all the education/e-learning websites of the GoI/J&K Government are accessible over 2G internet for downloading e-books of NCERT and JKBOSE, teaching videos have been uploaded on social networking system and J&K knowledge Network (JKNN).

42. It is submitted that in some places in the Union Territory, educational material in the form of e-content had been provided in hard drives to all the colleges, who further disseminated it through CDs, pen drives, etc. amongst the faculty and students.

43. It is submitted that online and on call help desks for counselling, clinical psychologists, experts on mental health and career counsellors have been associated with the help-desk (cell constituted at directorate level) to guide the students.

44. It is submitted that in the past more specifically, in the years 2010 & 2016, restrictions were imposed in the UT of J&K to ensure maintenance of law & order. During the said period, all the educational institutions were shut for a considerable period of time and internet services were also **suspended altogether** though temporarily. At that point in time, neither the petitioners nor any other person approached this Hon'ble Court with the submissions and prayers for restoration of internet or for providing facility of online classes to the student community then.

45. All the major e-commerce/e-wallets/banking applications and banking websites can be used over 2G to conduct transactions. It is submitted that social media/messaging platforms like Twitter, Facebook, WhatsApp, etc. can be used effectively by the people in J&K, over 2G internet, to communicate the shortage of any essential/important commodity to the Government and its representatives and this mechanism of reporting is functional in all the districts of the UT of J&K. Complaint redressal mechanism is in place and the speed of 2G internet is sufficient to send emails and complaints to the concerned authorities for their redressal.

46. It is submitted that if any lawyer faces any difficulty in participating in video conference, an arrangement can always be made by the Administration of UT in consultation with the Hon'ble High Court to provide designated computers which can be used by lawyers.

47. It is pertinent to mention that order No. home-28 (TSTS) of 2020, dated 15.04.2020 mentioned in Para 5 hereinbefore has also come to an end by efflux of time and Government order No. Home-34 (TSTS) of 2020, dated 27.04.2020, necessitated in view of the reasons spelt out in the said order itself, has been issued by the answering Respondent and will remain effective till 11.05.2020.

That the answering Respondent seeks leave of this Hon'ble Court to make additional submissions, if required, during the course of proceedings before this Hon'ble Court.

It is most respectfully submitted that in view of the submissions made herein above, this Hon'ble Court may be pleased to dismiss the present Petitions/Applications. The present Reply is made bona fide and in the interest of justice.

It is respectfully prayed that the requirement of an affidavit in support may be dispensed with in view of the present

pandemic, however in case this Hon'ble Court so directs an affidavit will be filed as and when present situation improves.

Place: Jammu

Date: 28.04.2020



Name: Shaleen Kabra

Designation: Principal Secretary, Home Department,
Government of J&K.

ITEM NO.12

COURT NO.1

SECTION PIL-I

SUPREME COURT OF INDIA**RECORD OF PROCEEDINGS****F.NO. 145/Judl./2020**
Dated: 09th April, 2020**CIRCULAR**

It is hereby notified to all the concerned that henceforth all the urgent matters shall be mentioned orally only before Hon'ble the Chief Justice of India. The petition filed by Foundation For

MEDIA PROFESSIONALS VS. UNION TERRITORY OF JAMMU AND KASHMIR AND ANR.

Case No. Dairy No. 108172020.

demands immediate restoration of internet communication in the region without any further delay. Access to the Internet is a fundamental right of every citizen of this country under Article 19 of the constitution, and further CrPC sections cannot be used to suppress freedom of speech and expression and difference of opinion. The Jammu and Kashmir Union Territory Administration is hereby ordered to take a quick review within 24 hours and restore full internet communication in the region.

Magistrates, while passing suspension orders, should apply their mind and follow doctrine of proportionality.

SUPREME COURT OF INDIA

We Appoint Mr. Sanjiv Bathia, R. Lohra, learned senior counsel who is present in the court, as learned Amicus Curiae to assist the court in the matter.

(SANJIV KHANNA-11)
Asst. REGISTRAR-cum-PS

(INDU BISMAL INDORI)
ASSISTANT REGISTRAR



ITEM NO.1

Virtual Court 1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL)Diary No(s).10817/2020

FOUNDATION FOR MEDIA PROFESSIONALS

Petitioner(s)

VERSUS

UNION TERRITORY OF JAMMU AND KASHMIR & ANR.

Respondent(s)

IA No.48247/2020 - CLARIFICATION/DIRECTION

Date : 09-04-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE R. SUBHASH REDDY
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Mr. Huzefa Ahmadi, Sr.Adv.
Mr. Shadan Farasat, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The Court is convened through Video Conferencing.

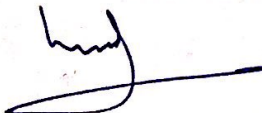
Issue notice, returnable within one week.

Dasti, in addition, is permitted.

The petitioner is permitted to serve the standing counsel
for the respondents through E-mail.

The Registry is also directed to serve the notice to the
standing counsel for the Union Territory of Jammu & Kashmir as also
the Union of India through E-mail.

(SATISH KUMAR YADAV)
AR-CUM-PS



(RAJ RANI NEGI)
ASSISTANT REGISTRAR

VAKALATNAMA

IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) DIARY No. 10817/2020

IN THE MATTER OF:

FOUNDATION FOR MEDIA PROFESSIONALS

.... Petitioner

VERSUS

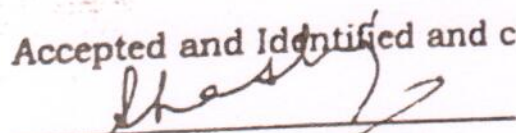
UNION TERRITORY OF JAMMU
AND KASHMIR AND ANR.

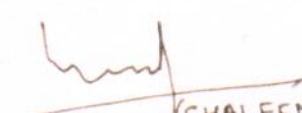
... Respondents

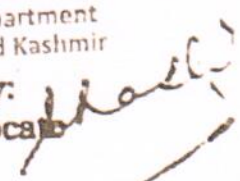
I/WE, the petitioner(s)/Respondent(s) in the above mentioned matter, do hereby appoint and retain SHASHI JUNEJA & Pinky Behera Advocate Supreme Court of India, to act and appear for me /us in the above mentioned matter reference and on my/our behalf to conduct and prosecute(or defend) or withdraw the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for review, to file and obtain, return of documents and to deposit and receive money on my/our behalf in the above mentioned matter Reference and in the above matter. I/We agree to ratify all acts done by the aforesaid Advocate, in pursuance of this authority.

Dated this the 26th day of April 2020

Accepted and Identified and certified


Petitioner/Respondent
Advocate, Supreme Court of India


(SHALEEN KABRA)
Principal Secretary to Government,
Home Department
Jammu and Kashmir

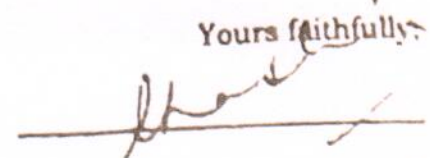
Identified by:
Advocate 

MEMO OF APPEARANCE

To
The Registrar
Supreme Court of India
New Delhi
Sir,

Please enter my appearance on behalf of the Petitioner(s)/ Appellant(s)/
Respondent(s)/ Intervenor/ Caveator in the above mentioned matter.

Yours faithfully,


Advocate for Respondent no. 1