

**HIGH COURT OF JAMMU AND KASHMIR**  
**AT SRINAGAR**

SWP No. 2548/2018  
IA No. 01/2018

Date of Order: 31<sup>st</sup> of October, 2018.

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Anwar Aftab Shah

Vs.

Commissioner/ Secretary Forest, Environment & Ecology Department & Anr.

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**Coram:**

**Hon'ble Mr Justice Ali Mohammad Magrey, Judge.**

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**Appearance:**

*For the Petitioner(s): Mr Arif Sikandar Mir, Advocate.*

*For the Respondent(s): Ms Asifa Padroo, AAG.*

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**01.** When the matter came up for consideration, on motion hearing, it was felt necessary to seek a report from the learned Registrar (Judicial) of this wing of the High Court as to how the petitioner, a resident of Chanani, Udhampur, has challenged the order impugned, wherein he, presently posted as I/C DFO Reasi, Forest Division, has been transferred and posted as I/C CEO, IWDP, Akhnoor, for his further adjustment, has filed the instant writ petition in the Srinagar wing of this High Court.

**02.** The learned Registrar (Judicial) has filed his report, wherein a reference is made to the judgment dated 21<sup>st</sup> of October, 2009, passed by a Division Bench of this Court delivered in LPA No. 166/2009.

Perusal of the operative portion of the judgment aforesaid reveals that if part of the cause of action arises within such place of sitting of the Court, that wing of the Court is entitled to receive an application made under Article 226 of the Constitution of India read with Section 103 of the State Constitution, and, for that matter, no leave of the Chief Justice is required. This decision has been rendered in a matter where the selection had taken place in Srinagar and both the competing candidates, i.e. the selectee as well as the non-selectee, were the residents of Jammu division. However, it needs must be said that in his report, the learned Registrar (Judicial) has referred to the circular No. 06 dated 18<sup>th</sup> of December, 2010, issued by this High Court, wherein it is provided as under:

*"All Writ Petitions/ Public Interest Litigations/ Appeals/ Arbitration Applications/ Misc. Applications, etc. related to Jammu wing of the High Court shall be filed, heard and decided at Jammu Wing. Similarly, such matters related to Srinagar wing shall be filed, heard and decided at Srinagar wing.*

*Provided that in exceptional cases or if it is not practicable to file such a matter pertaining to a particular Wing at that Wing, it may be filed at the other Wing with the leave of Hon'ble the Chief Justice or in his absence, the senior most Hon'ble Judge available at the Headquarter.*

*This order shall take effect immediately and supersede all earlier orders in this regard."*

Applying the ratio of the aforesaid circular to the case on hand, what can be seen is that there is no leave sought by the petitioner from Hon'ble the Chief Justice to file the instant petition before this Wing of the High Court. The Registry seems to have, under bonafide belief and on the basis of the judgment delivered by a Division Bench of this Court on 21<sup>st</sup> of October, 2009, listed the case before this Wing of the Court,

when, as a matter of fact, the circular dated 18<sup>th</sup> of December, 2010 (supra), issued by this Court, has, upon taking effect, superseded all earlier orders in this regard. The object of issuing the circular aforesaid is also with reference to ensuring convenience of the parties. In the instant case, the convenience of the petitioner formed the basis for him to challenge the order impugned, which convenience, if examined even by a common man, in fact, relates to approaching the nearest available wing of the High Court, which, herein this case, is Jammu wing of the Court. Merely because the order impugned has been issued by the Department in the Civil Secretariat, functioning at Srinagar, now shifted to Jammu, as part of the annual Darbar Move, does not, in any manner, entitle the petitioner to file the instant petition before this Wing of the High Court. The respondents, for all intents and purposes, were/ are available in Jammu, therefore, there shall be no difficulty for the petitioner to approach the Jammu wing of this Court for challenging the order impugned, as has been done herein this petition.

**03.** Having regard to the discourse made hereinabove, coupled with the clear mandate of the circular dated 18<sup>th</sup> of December, 2010, issued by this High Court, I am of the considered view that this writ petition cannot be entertained by this Wing of the High Court, unless proper permission to do so is granted by Hon'ble the Chief Justice. It being so, this writ petition, on the ground of having been filed in Srinagar wing of the High Court against the circular aforesaid and without any permission from Hon'ble the Chief Justice, shall stand **dismissed** as

**04.** Writ petition **dismissed** as above, alongwith all connected IA(s).

"TAHIR"