

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

...
FAO No. 34/2024

Reserved on: 24.03.2025
Pronounced on: 27.03.2025

Muslim Youth Association Zanskar.

.....Petitioner(s)

Through:
*Mr. M. M. Dar, Adv. with
Ms. Saika, Adv.*

Versus

Mohammad Sultan Wani and Ors.

.....Respondent(s)

Through:
*Mr. Jahangir Iqbal Ganie, Sr. Adv. with
Ms. Mehnaz Rather, Adv.*

CORAM:
HON'BLE MS JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

JUDGMENT

1. This is an appeal filed by the appellants against the order dated 21.11.2024 passed by the Court of learned Principal District Judge, Kargil, (for short court below) in a suit titled “*Muslim Youth Association Zanskar vs. Mohammad Sultan Wani and Ors.*” in terms whereof the court below has dismissed the application for interim relief by vacating the temporary restraint order dated 03.09.2024. The court below has further directed that election to the office bearers of Muslim Youth Association Zanskar shall be held within one month from the date of order and till such time the day to day affairs of the Association shall be looked after by the plaintiff

who shall work as president without any authority to deal with funds and property of this issue.

2. Feeling aggrieved of the order, the appellant/plaintiff has approached this court with the instant appeal for setting aside the impugned order along with communications dated 27.11.2024 and 29.11.2024 passed pursuant to impugned order in case titled “*Muslim Youth Association Zanskar vs. Mohammad Sultan Wani and Ors.*”
3. The appellants have questioned the impugned order *inter alia* on the grounds that the court below while considering the suit and the application for interim relief has not only vacated temporary restraint order dated 03.09.2024, but has also traversed beyond the pleadings by directing for holding of elections of the office bearers of Muslim Youth Association Zanskar within a period of one month from the date of order; and that the court below has blown hot and cold in the same breath by holding on the one hand that the registration of the society has not been extended pursuant to application of J&K Re-Organization Act, 2019 to the erstwhile State of J&K and on the other hand has directed for conducting elections without taking into consideration that the byelaws do not provide for any such elections.
4. Upon notice, Mr. Jahangir Iqbal Ganie, learned Sr. Advocate has caused appearance on behalf of respondents.
5. Learned Sr. Counsel appearing for the respondents stated that the impugned order based on settled legal proposition of law and the ad-interim relief is discretionary exercise of power of the court and

there is no illegality or perversity about the impugned order as the contesting party cannot force the court to pass an order in its favour. Learned Sr. Counsel further stated that the petitioner is admittedly 63 years of age and yet claims to be the president of Youth Association. Learned Sr. Counsel seeks vacation of order dated 04.12.2024, whereby this court has kept the impugned order in abeyance. The learned Sr. Counsel referred to and relied upon the judgment of Apex Court delivered in case titled “*Wander Ltd. and Anr. vs. Antox India P. Ltd.*” reported as AIR 1990 (supp) SCC 727 in support of his submissions.

6. This court on consideration of the matter, in terms of order dated 04.12.2024, has kept the impugned order in abeyance and restored the operation of the order dated 03.09.2024 till next date of hearing. The said direction has been extended from time to time and is on operation as on date.
7. Heard learned counsel for the parties and considered the submissions.
8. It appears that the society of which a protection had been sought by the medium of civil suit filed by the plaintiff/appellant before the court below has outlived its life upon the promulgation of J&K Re-Organization Act, 2019 and the appellant/plaintiff has not taken any steps for extending the said registration in its favour, therefore, as on date the society of which plaintiff is stated to be the representative and of which interests are sought to be protected by the suit before the court below is not in existence in accordance with law or the rules applicable. The court below in this behalf was right

in observing that after the promulgation of J&K Re-Organization Act, 2019, the registration in favour of the appellant association ceases to exist. However, the court below while so holding has apparently traversed beyond the pleadings of the suit and the scope of its jurisdiction, inasmuch as it ought to have restricted itself to the grant or refusal of the application for interim relief.

9. This court refrains from commenting any further on the merits of the case lest that may prejudice the rights of the parties.

10. In view of above, the appeal is allowed and the impugned order dated 21.11.2024 passed by the court below is set aside along with the communications dated 27.11.2024 and 29.11.2024 purportedly issued pursuant to and in furtherance of the impugned order. The court below is requested to reconsider the matter thereby providing opportunity of hearing to both the sides and pass appropriate orders thereon in accordance with law within a period of four weeks from the date of receipt of copy of this order. Parties shall appear before the court below on 16th April, 2025.

11. Registry is directed to send a copy of this order to the court below for compliance. Till such time, the application is reconsidered and decided afresh the order dated 03.09.2024 shall hold the field.

12. Disposed of.

(MOKSHA KHAJURIA KAZMI)
JUDGE

Srinagar
27.03.2025
Sakeena, PS

Whether the judgment is reportable: Yes/No
Whether the judgment is speaking: Yes/No