

S. No. 159
Suppl. Cause List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 1809/2022

CM No. 4458/2022

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Inhabitants of Village Andergam Pattan and ...Appellant/Petitioner(s)
Ors.

Through: Mr. Syed Avees Geelani, Advocate

Vs.

UT of J&K and Ors. ...Respondent(s)

Through: Mr. Syed Musaib, Dy. AG

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER

04.09.2024

1. Petitioners seek a direction upon respondents, particularly respondents 3 & 4, to allow them to run Sheikh-ul-Alam English Medium Model School, Andergam Pattan, in the existing building situated at Village Andergam Pattan of District Baramulla. They also seek a direction upon respondents not to cause any interference in the peaceful running of said school.
2. The short grievance of the petitioners is that the Sub Divisional Magistrate and Tehsildar, Pattan, are not allowing them to run the school, which seriously affects the rights of their children and the children of inhabitants of aforesaid village.
3. Mr. Syed Musaib, Dy. AG, submits that the issue involved in this petition has already been decided by a Coordinate Bench of this Court in a batch of writ petitions, viz. WP(C) no.3250/2023 with leading case titled as Kirmania Model High School Batwina Ganderbal v. UT of J&K, wherein it has observed and directed as under:-

“Almost all that was required to be discussed, observed, viewed and opined has already been done hereinbefore while disposing of the aforementioned writ petition, WP(C) No.3250/2023. In that writ petition, the petitioner has acquired proprietary land.

Insofar as the other writ petitions, where the schools are being run on Kacharie/State/Shamlat etc. land are concerned, the petitioners therein can either acquire the proprietary land and/or approach the respondent-authority (Principal Secretary to Government, Department of School Education, UT of J&K/J&K Board of School Education) with their plea as is made by them in their respective writ petitions for consideration which can include the exchange of proprietary land in lieu of Kacharie/State/Shamlat etc. land, as may be available under and in term of the Land revenue Act or any other applicable law(s). All these requests/applications shall be made by petitioners within four weeks from today. Principal Secretary to Government, Department of School Education UT of J&K/J&K Board of School, Education, on receipt of such application(s) shall decide the same either himself/itself or by constituting a Committee, comprising of senior officers of the School Education Department/J&K Board of School Education, Revenue Department any other department(s) as may be thought appropriate by him/it, and get such applications decided within four months. While doing so, the petitioner(s) shall also be heard.

It is made clear here that in the event any of the writ petitioners makes the same proposal as has been made by the petitioners in WP(C) No. 3250/2023, such a case will be governed and regulated by the directions passed hereinabove in WP(C) No. 3250/2023. Till then petitioner(s) be permitted to run the school(s) provided they are able to do so having regard to change of circumstances during pendency of instant matter as the students studying in those schools have been shifted to other schools.

With regard to the writ petitions/cases, where Kahcharie/State/ Shamlat land etc.is not involved, they (writ petitioners therein) can also approach Principal Secretary to Government, Department of School Education, UT of J&K/J&K Board of School Education, with their request /plight within four weeks from today on receipt of such application, he /it shall either himself/itself decide or get such application(s) decided through the Committee, to be constituted by him/it, within a period of four months and while doing so, petitioner(s) shall also be heard. Till then Petitioner(s) be permitted to run the schools provided they are able to do so having regard to change of circumstances during pendency of instant matter as the students studying in those schools have been shifted to other schools.”

4. As the judgement supra applies to the case in hand as well inasmuch as it squarely covers the instant case, therefore, the instant writ petition is disposed of on the same lines and respondents shall consider and decide the instant case of petitioner in the same manner as has been directed in supra judgement.
5. **Disposed of** as above.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
04.09.2024
Manzoor