

S. No. 107
Advance List

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

**CM No. 3122/2020 in**  
**WP (C) PIL No. 04/2020**  
(Through Video Conferencing)

Azra Ismail

.... Applicant

Through: Mr. Shafaqat Nazir, Advocate.

v.

Union of India and others

.... Respondents

Through: Mr. Shah Aamir, AAG.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

**ORDER**  
**01.09.2020**

**CM No.     /2020:**

This is another case where the Registry has not diarized application (CM) which is filed for seeking dispensation of removal of defects and bringing on record the certified copies of orders / judgements.

We have time and again directed the Registry to do the needful.

The concerned dealing hand shall give an explanation for this omission. Let the Registrar IT look into the matter and shall place a report before us in this regard.

Let the instant application be diarized as per rules.

Let the deficiency be made good as per the Circular No. 16/GS dated 29<sup>th</sup> March, 2020 upon removal of the current Lockdown.

This application is allowed in the above terms.

**CM No. 3122/2020:**

1. Notice in the application.

2. Mr. Shah Aamir, learned AAG, who is present in another case, is asked to take notice. He shall file the reply before the next date of hearing. Learned counsel for the applicant shall furnish him a copy of the application within three days from today.

3. Learned counsel for the applicant has filed the instant application seeking leave to intervene in the pending Public Interest Litigation Petition.

4. One of the grievances in this application relates to the working of the Government Dental College, Srinagar, and Associated Hospitals of Government Medical College, Srinagar.

5. We are informed that initially when restrictions on account of the Covid-19 pandemic had to be imposed, the Government had restricted the functioning of public facilities in Government medical establishments. However, over a period of time, there has been slow opening of these facilities.

6. The applicant submits that several doctors and practitioners working in Government Hospitals have taken undue advantage of the restrictions imposed by the Government.

7. It has been contended by the applicant that while facilities in the Dental Hospital are closed and no procedures are being performed, several doctors and practitioners employed in the hospital are carrying out all those procedures in their private clinics.

8. This application seeks to highlight an unfortunate fall out and aspect of the practice prevalent in the Union Territory of Jammu and Kashmir whereby Government Doctors are permitted to carry on with their private practice. Learned counsel for the applicant submits that this permission is used by medical practitioners to build large private practices by diverting patients from Government hospitals to their private clinics.

9. Mr. Shah Aamir, learned AAG, representing the Respondent-Department refutes the above contentions and the allegations made in the application and seeks time to file the reply.

10. If what is submitted by the applicant is correct, it suggests the adverse manner in which health services would be made available to patients seeking treatment in Government Hospitals and facilities. The contended disservice

to the residents of the Union Territory of Jammu and Kashmir and prejudice to the public interest is a serious matter and the permissibility of permitting private practice to Government Doctors and employees deserves to be seriously re-examined.

11. It cannot be denied that it is patient care and public interest which has to be placed on the highest pedestal and optimised Government doctors and professionals cannot be permitted to use their employment and public facilities for building private practices and commercial exploitation. Attending to lucrative private practices has to resultantly diminish and detract from the attention which a professional would pay to his salaried public position as a government doctor.

12. Judicial notice can be taken of the fact that employment opportunities in the Union Territory of Jammu and Kashmir are by far, extremely few, large numbers of people without financial resources and health facilities either not available or insufficient. Such practices as complained by the applicant need to be urgently brought to a halt.

13. Let a copy of the application and observations made in this order be served upon the Chief Secretary of Union Territory of Jammu and Kashmir to ensure that the above issue is examined.

14. The competent authorities shall examine the practices which are prevailing in other States and Union Territories on this aspect, of course, after taking into account the limitations on medical facilities available in the Union Territory of the Jammu & Kashmir.

15. List on 01<sup>st</sup> of October, 2020.

**(PUNEET GUPTA) (GITA MITTAL)**  
**JUDGE CHIEF JUSTICE**

**SRINAGAR**

**01.09.2020**

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