Sr. No. 97

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP (C) 1452/25

Mohammad Irfan …Petitioner(s)

Through: Mr. Mehtab Gulzar, adv.

vs.

UT of J&K, through Principal Secretary to Govt. (Home) Department Civil Sectt. Jammu and ors ,

...Respondents.

Through: Ms. Priyanka Bhat Assisting Counsel to Mrs.Monika Kohli, Sr. AAG.

CORAM:

Hon'ble Mr. Justice Mohd. Yousuf Wani, Judge.

Heard.

Through the medium of the instant petition filed under the Provisions of 226 of the Constitution of India, the petitioner has sought the issuance of writs, orders and directions upon the respondents in the nature of mandamus for commanding them to assess his threat perception and to provide the adequate security cover to him so that his right to life and personal liberty is not interfered with.

The case of the petitioner in nutshell is that he is a permanent resident of Union Territory of J&K and a citizen of India, thus, entitled to seek enforcement of his fundamental and other legal rights guaranteed to him under the Constitution of India. That he is a practicing advocate duly enrolled with the Bar Council of J&K and Ladakh. That he has served as Government Advocate in this Court at Jammu and during his

assignment, as such he has represented Union Territoty by prosecuting/pursuing highly sensitive and high profile cases involving security of State. That in the discharge of his duties as Government Advocate he actively represented UT in the cases filed by/against anti-national elements, over ground workers and suspected militants, which led to the receipt of threats by him from such anti-national elements. That the persistent receipt of threats have thrown him in a vulnerable position even at this time when he is not serving as a Government Advocate in this court. That owing to his justified apprehensions, he made a formal representation dated 15.11.2024 to the Additional Director General of Police, Security Jammu, detailing therein the nature of threat faced by him with the request to the Officer concerned for providing him the needful security cover but the said representation has not been considered till date. That thereafter he approached the SSP Kishtwar who vide his order No. 62 of 2024 dated 30.01.2024 deputed a constable Iftakhar Ali No. 589/KTR as his personal security officer with immediate effect. That subsequently, the SSP Kishtwar through his relieving order No. Estt/Relieving/2024/31200-215 dated 27.12.2024 transferred the said constable Iftakhar Ali to GRP J&K, whereafter he was left unsecured. That the issue of threat agitated by him is not merely speculative but he continues to receive phone calls and messages from unknown numbers. That he has got his fundamental right to life and personal liberty which cannot be allowed by the respondents to be ordinarily interfered with. That the respondents by choosing not to consider his representations are deemed to have violated his fundamental and human right to life and his personal liberty.

In the facts and circumstances of the case and especially having regard to the relief sought by the petitioner, the matter in the opinion of the court can be disposed of at this threshold stage by passing of appropriate orders regarding taking of action by the respondents which they otherwise are legally obliged.

Right to life and liberty guaranteed under Article 21 of the Constitution of our country mandates that every individual subject to procedure established under law shall lead a normal, peaceful and independent life and as such right to life includes in it a right not to live a threatfull life. The petitioner who has discharged his duties as a Government Advocate in this Court is obviously believed to have represented the State in some sensitive matters which may have placed him at a vulnerable position. It is the duty of the respondents to consider the representations of the petitioner and to assess his apprehended threat perception for providing the needful security to him.

Accordingly, the instant petition is disposed of with the direction to the respondents to assess the threat perception of the petitioner under rules and to provide him the adequate security as per the result of the assessment.

Copies of this order be forwarded for necessary action to the respondents.

Disposed of.

(MOHD. YOUSUF WANI)
JUDGE

Jammu:
04.06.2025
"Ayaz"