

Sr. No. 6
Regular

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

PIL No. 2/2018

Jammu and Kashmir Peoples Forum

...Appellant(s)/Petitioner(s)

Through: Mr. Altaf Haqani, Sr. Advocate.
With Mr. Asif Mir, Advocate.

Vs.

Union of India and Ors.

...Respondent(s)

Through: Mr. T.M. Shamsi, ASGI., R-1.
With Ms. Rehana Qayoom, Advocate.
Ms. Aruna Thakur, Advocate, R-2.
Mr. DC Raina, Advocate General
With Mr. Sajad Ashraf, GA., R- 3 and 4.
Mr. Zaffar Shah, Sr. Advocate., R-5.
With Mr. A. Hanan, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE.

ORDER

22.07.2022

1. Heard Mr. Altaf Haqani, learned senior counsel, assisted by Mr. Altaf Mir, learned counsel appearing for the petitioners, Mr. T.M. Shamsi, learned ASGI, learned ASGI, assisted with Ms. Rehana Qayoom, learned counsel appearing for respondent No. 1, Ms. Aruna Thakur, learned counsel appearing for respondent No. 2, Mr. D.C. Raina, learned AG, assisted by Mr. Sajad Ashraf, learned GA, appearing for respondent No. 3 & 4, Mr. Zaffar Shah, learned senior counsel, assisted by Mr. A. Hanan, learned counsel appearing for respondent No. 5.
2. Through the medium of this Public Interest Litigation, the petitioner has prayed for the following reliefs: -
 - a. *That the Hon'ble Court may be pleased to command the respondent No. 1 to file response and issue necessary notification for introduction of Sharia Compliant Windows as recommended by Deepak Mohanty Committee.*
 - b. *That this Hon'ble Court may be pleased to direct respondent No. 2, the Reserve Bank of India to take immediate steps in this constituent*

banks including the Jammu and Kashmir Bank limited so as to facilitate Shariah Compliant Windows.

c. That this Hon'ble Court may kindly be pleased to direct respondent No. 5 the Jammu and Kashmir Bank Limited to place to this Hon'ble Court the entire details of Non Performing Accounts (NPAs) and the steps taken for recovery of the outstanding amount in NPAs as the same is public money which cannot be allowed to be misappropriated either by account holders or by the management of the said bank.

d. That this Hon'ble Court may further be pleased to direct respondent No. 5 to take immediate steps for opening of Shariah Compliant windows to accomplish the object of mass level participation in Shariah Banking by the people of the State of Jammu and Kashmir in particular and other people of the areas wherever the J&K Bank has established in its branches.

3. In nutshell, petitioners want a direction to be issued to the respondents 1 and 2 i.e., Finance Ministry, New Delhi and Reserve Bank of India, to issue appropriate notification permitting opening of Shariah Compliant windows in all branches of J&K Bank.
4. A counter affidavit has been filed on behalf of the Reserve Bank of India and it has been stated that in the year 2013, Ministry of Finance, Government of India had requested the Reserve Bank of India to give its opinion on introduction of Islamic Banking in India. An inter-departmental group was constituted under the Chairmanship and one Sh. Rajesh Verma to examine the feasibility of introducing Islamic Banking in India. The said committee vide its report declined to introduce Islamic Banking, however, the Government appointed another committee headed by Sh. Deepak Mohanty in the year 2015 to look into the above aspect. The said committee vide its report submitted to the Reserve Bank of India on 28.12.2015 made certain recommendations permitting interest free banking in certain respects

but the said report was not accepted by the Government. The Government vide its letter dated 21.03.2017 specifically conveyed its decision that Islamic Banking is not feasible and Shariah Banking Window cannot be opened. The said communication of the Government dated 21.03.2017, is on record as Annexure-I, to the counter affidavit of the Reserve Bank of India.

5. The above decision of the Government is a policy decision which is beyond the purview of judicial review more particularly in a public interest petition. The Court cannot enter into the realm of policy decision of the Government. In case petitioner or any person is aggrieved by the above policy decision it may take appropriate steps to challenge it before the proper forum, if advised.
6. In view of the above policy decision of the Government, we direct for closure of this PIL.
7. The petition is, accordingly, disposed of.

(JAVED IQBAL WANI)
(JUDGE)

(PANKAJ MITHAL)
(CHIEF JUSTICE)

SRINAGAR

22.07.2022

Junaid