

S. No. 22
Suppl. list

IN THE HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

WP(C) PIL No. 20/2019

Syed Tassadque Hussain

....Appellant/Petitioner(s)

Through: Mr. S. T. Hussain, Sr. Advocate with
Ms. Nida Nazir, Advocate

Vs.

Union of India and Another

....Respondent(s)

Through: Mr. D. C. Raina, Advocate General with
Mr. Sajad Ashraf, GA for R2
Mr. T. M. Shamsi, ASGI for R1

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR JUSTICE RASHID ALI DAR, JUDGE

ORDER
16.10.2019

1. The instant writ petition has been filed by the petitioner, *inter alia*, contending that the amendment effected in Article 22 of the Constitution of India has not been brought into force in Jammu and Kashmir; that the delegation of powers to detain the persons under Sections 8 and 16 of the Jammu and Kashmir Public Safety Act, 1978 in Divisional Commissioners or District Magistrates is illegal and that also Section 10 of the enactment was contrary to law. The petitioner challenges the legality of Sections 8 and 16 of the Jammu and Kashmir Public Safety Act, 1978 also on the grounds of violation of Article 14 of the Constitution of India.

2. Our attention is drawn by Mr. D. C. Raina, learned Advocate General to the provisions of Article 35(C) of the Constitution of India in support of his submissions that the writ petition is without merit. It is further submitted by learned Advocate General that in view of the provisions of the J&K Reorganization Act, 2019, the writ petition may not be maintainable. Mr. D. C. Raina, submits that so far as Section 8 and 16 of the J&K Public Safety Act is concerned, the same is inconsonance with the provisions of the Constitution of India.

3. It is the submission of Mr. S. T. Hussain, learned senior Advocate and the petitioner herein, that he has had no occasion to examine the provisions of the J&K Reorganization Act, 2019 or the impact thereof. Mr. Hussain, prays for an adjournment to examine this law.

4. We find that one of the grievances made by the writ petitioner in his affidavit (page 20) is that there may be no access to legal aid for the detenus who are poor people without financial means under the recent orders of detention in the State.

The respondents shall ensure that legal assistance is made available to all the detenus. In this regard, if necessary, assistance of the Member, Secretary, Jammu and Kashmir State Legal Service Authority may be taken by the respondents for ensuring legal aid which could be arranged through video conferencing as well.

List on 6th November, 2019.

(RASHID ALI DAR)
JUDGE

(GITA MITTAL)
CHIEF JUSTICE

SRINAGAR

16.10.2019

“Manzoor”