

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

PIL No.404/2011

CM Nos. 5665/2022, 2328/2022, 7707/2023,
5863/2023, 5956/2023, 8192/2021, 488/2024,
3587/2024, 2438/2022, 1913/2024, 3519/2023,
6508/2022, 2878/2023, 2954/2023, 7406/2024,
7409/2024 c/w

WP(C) No.2229/2021

CM Nos. 7196/2021 & 6808/2022

WP(C) No.2230/2021

CM Nos.7197/2021, 6809/2022

WP(C) No.1888/2022

CM No.4698/2022

WP(C) No.2546/2022

WP(C) No.2547/2022

WP(C) No.2328/2024

CM No.6222/2024

Reserved on : 16.12.2024

Pronounced on : 03.01.2025

Court on its own Motion

...Petitioner(s)/Appellants.

Through: Mr. Nadeem Qadri, Amicus Curiae.
Mr. Z. A. Shah, Sr. Advocate, with Mr. A. Hanan, Advocate
Mr. S. F. Qadri, Sr. Advocate, with Mr. Huzaif Ashraf, Adv.
Mr. M. S. Reshi, Advocate.
Ms. Asma Rashid, Advocate.
Mr. Aatir Javaid Kawoosa, Advocate.
Mr. S. N. Ratanpuri, Advocate.
Mr. F. A. Lone, Advocate.
Mr. Lone Altaf, Advocate.
Mr. Yasir Nabi Rather, Advocate.

Vs.

State of J&K and others.

....Respondent(s)

Through: Mr. T. M. Shamsi, DSGI, with Ms. Rehana Qayoom, Adv.
Mr. Faizan Ahmad, CGC.
Mr. Mohsin Qadiri, Sr. AAG, with Ms. Maha Majeed,
Assisting Counsel.
Mr. Faheem Nissar Shah, GA.
Mr. Illyas Nazir Laway, GA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

ORDER
15.10.2024

Per, Tashi Rabstan, CJ

01. The present litigation in public interest had been filed by a practising lawyer-Mr. Qazi Rashid Shams, in the year 2011 wherein it has been contended that instead of discharging the fundamental duties by the citizens and the corresponding duties cast upon the State authorities to make endeavours for protection of environment and save it from pollution, the river Sindh and its water is subjected to worst kind of pollution by raising hotels, tourist huts and restaurants, for deriving natural pleasure, at various places on the river beds and at some places on the river itself. It is further contended that the said constructions are being raised in violation of the various Statutes and in the process the water is getting polluted and in case immediate steps for retrieving the river and removing the constructions already raised are not taken, the water will get continuously polluted. Further, it is pleaded that no steps are being taken by the respondents to stop the illegal constructions. Therefore, the petitioner has filed this Public Interest Litigation and has prayed for the following relief:

“Writ, Order or direction in the nature of mandamus commanding the respondents to prevent the pollution of River Sindh flowing from Gumri through various villages joining river Jehlum between Sumbal and Srinagar and to remove the constructions which are being carried out illegally on the river itself and its river beds and to find out the hazards caused by the constructions. The Deputy Commissioner or any other authority may be directed to report about these constructions for appropriate orders to be passed by the Hon’ble Court. Any other relief which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case be also passed in favour of the petitioner.”

02. After consideration of the petition, various interim orders came to be passed from time to time aimed at to stop the illegal constructions raised in the Sonamamarg as also alongside the river beds and on the river Sindh itself. Status reports were sought and filed in the matter from time

to time and Commissioner(s) was appointed in the matter to report about the factual position obtaining on spot. Finally this Court vide order dated 28.09.2015 disposed of the petition in the following terms:

“8. In so far as prayer seeking direction upon the respondents to prevent the pollution of river Sindh flowing from Gumri through various villages adjoining river Jehlum between Sumbal and Srinagar, the petitioner is permitted to approach the J&K State Pollution Control Board by making his grievance and it is for the Pollution Control Board to consider the application as and when filed and take appropriate action in accordance with law.”

03. However, after disposal of the writ petition, the same was revived vide order passed by this Court on 22.08.2017 on the basis of reports of indiscriminate and unauthorised constructions in the Sonamarg area. In the order dated 22.08.2017, it was observed that the petitioner, Mr. Qazi Shamas, at that point of time was assigned the duties of Dy. Advocate General, therefore, the cause title was directed to be changed to *“Court on its own motion v. State of JK & Ors.”* The Court further directed that no construction activity be carried out in the Sonamarg area.

04. After revival of the writ petition, in addition to the basic issue raised in the writ petition, the scope of the writ petition was extended in terms of various orders passed from time to time including the order dated 11.09.2017, relevant portion whereof reads as under:

“1. The Sonamarg area, it is evident, has suffered serious environment degradation because of apathy on the part of stakeholders. Essentially, there are four aspects to the Sonamarg area. The first is the attraction of the meadows in the Sonamarg. The very name, Sonamarg, reflects its actual nature, in the sense that it means ‘golden meadow’.

2. The second aspect which needs immediate attention is the Thajiwas Glacier. It needs to be verified as to whether this glacier is receding. The Earth Sciences Department, University of Kashmir, Hazratbal, Srinagar, is requested to submit a report on the Thajiwas Glacier. A copy of this order be sent to the Head of the said Department.

3. The third aspect which also requires immediate concern is the Thajiwas Wildlife Sanctuary and the associated forest areas.

4. *The fourth area of concern, which is often neglected, is the Sindh River which passes through Sonamarg. The State Pollution Control Board shall also submit a status report with regard to water and air pollution and the manner of treatment of effluents and sewage.*

5. *The learned Amicus Curiae has also suggested certain points, such as, strict regulation of vehicular traffic on the right side of the Srinagar—Leh road. He has also suggested that there should be designated pony tracks and nature trails with proper signage.*

6. *The Chief Executive Officer, Sonamarg Development Authority is present and so is the Regional Wildlife Warden. A status report be also submitted with regard to the Environmental Impact Assessment and the Environmental Management Plan.*

7.....”

05. During the pendency of the writ petition, the learned Amicus Curiae, on asking of the Court, submitted a report containing the observations and suggestions given by him, based on the efforts of a team of young environmentalists. The said report was taken on record and the observations and suggestion given were recorded in the order dated 11.10.2017, relevant portion of which reads as under:

“04.The report submitted by the learned Amicus Curiae is taken on record. The observations and suggestions given by him, based on the efforts of a team of young environmentalists, are set out as under: -

“1. The prepared Master Plan for Sonamarg lacks technical inputs and is a draft plan which provides outline of requirements of Sonamarg as tourist destination and doesn't give any recommendations on the conservation of the ecosystem. A proper EIA report should have been drafted way before as the Master Plan doesn't suit for today's scenario.

2. The plan to develop Sonamarg as fully facilitated tourist destination should not be on the stake of environment as the environmental degradation is already on high due to unplanned and unmanaged use of the resources.

3. The plan emphasizes mainly on constructional development ignoring the environmental fragility of

Sonamarg, although, the objectives of the plan include conservation of ecology and wise exploitation of resources.

4. The plan is prepared for the Sonamarg bowl area only which will lead to degradation of the bowl as large area outside the bowl has also great potential to be developed. Thus, a proper base plan for the whole area should be developed so that load is distributed uniformly.

5. Sonamarg bowl should be declared as no construction/ restricted construction zone so that the no scope of illegal constructions remains in place. The plan suggests construction of hotels, huts, dormitories to fulfil the requirement of 9447 beds as the requirement fulfilled is for 322 beds only as of year 2004. Thus increasing the area under increasing the land use under accommodation from existing 1.48% to 8.87% of the total area which means an increase of almost 800%, thus increasing the area under concrete.

6. Master Plan has no design considerations for the management of Solid waste in the area which is a current problem in the destination. No proper installation of dustbins by the authorities is witnessed around Sonamarg. Proper segregation and disposal systems need to be incorporated for proper management of Solid waste as prescribed under Solid Waste Management Rules, 2016, as governed under the Environmental (Protection) Act, 1986. The EIA report has studied the impacts of solid waste generation which suggests to put an Integrated Solid Waste Management (ISWM) in place which should focus on waste prevention, recycling and proper disposal. The master plan has no such provisions for Solid Waste Management.

7. There should be proper and timely supervision of Air Quality Standards at specified sites in and around Sonamarg to keep a watch over the Air Quality in the fragile ecosystem.

8. The already constructed hotels and other permanent dwellings should be scrutinized and various environmental standards should be implemented.

9. *An integrated Sewage Treatment System should be developed to prevent the water quality of river Sindh from degrading as sewage is directly being disposed of into the river without any pre-treatment or analysis. Sewage Treatment Plant of desirable capacity should be designed for proper disposal of sewage.*

10. *No vehicular movement including the public interference should be allowed inside the Thajiwas Wildlife Sanctuary including the Eco-Sensitive Zone area so that no species of flora and fauna are disturbed.*

11. *The Master Plan needs to include special conservation focus for the Thajiwas Glacier area which is the most concerned part of Sonamarg due to the continuous degradation in its area.*

12. *Construction activities going in and around Sonamarg should be banned, and present infrastructure should be closely supervised to maintain the ecological aspects.*

13. *There should be a proper check on other land use patterns like grazing, recreational activities around Sonamarg especially the Baltal-Thajiwas Wildlife Sanctuary and Thajiwas area.*

14. *Master plan no doubt is a step forward towards the development of Sonamarg as tourist resort but seems outdated as of now due to continuous encroachments, improper and mismanaged constructions in the bowl area. EIA report highlights the major errors in the Master Plan which need to be addressed, the errors include mapping errors, misrepresentation of Land Use Land Cover pattern and conversion of pastureland into camping sites, recreational parks etc. Thus, there is a need to revise the plan which should be totally based on sustainable development.*

15. *The EIA report is prepared under complete technical supervision but still there is a need to study impacts of activities other than that included in the Master Plan like setting up of military High Altitude Warfare School, construction of roads and tunnels, increasing tourist count etc.”*

05. *According to us, these are very valuable suggestions and need to be seriously considered and implemented by the BOCA and also while having a relook at the Master Plan for Sonamarg. This would be in addition to the directions already given by us.*”

06. It is apt to mention here that this Court vide its order dated 22.10.2020, imposed certain conditions while considering applications for sanction of building/ construction/ renovation/ repairs in any building. Relevant portion of the order dated 22.10.2020 reads as under:

“6. It is directed that, in addition to the requirements made in the applicable law, all applications for sanction of building/ construction/ renovation/ repairs in any building shall be accompanied by the following:

- (i) an affidavit by the applicant that he/ she is not in illegal occupation/ possession of any public land/ forest land in the entire Union Territory of Jammu & Kashmir as well as Ladakh, If yes, details thereof.*
- (ii) If the property is leased/ licensed, then details of payment(s) of the charges with copies of the receipts.*
- (iii) Self authenticated copies of all documents establishing legal right of ownership/ title/ occupancy over the land on which construction/ repairs/ renovation is proposed.*
- (iv) Certificate from the Deputy Commissioner and DFO concerned that the land is not public land and/ or forest land.*
- (v) Copy of original sanctioned plan with all documents of original sanction, previous permissions for additions/ repairs/ renovation;*
- (vi) Videography and photographs of the land; existing building (full exterior and interior) as well as in relation to neighbouring properties/ buildings.*
- (vii) Complete details (including exact location) of what is proposed to be undertaken which shall also be plotted on a site plan.*
- (viii) If such a request is favourably considered, then on completion of the work, completed site plan with colour marking of work undertaken; videography and photos of the completed work.*
- (ix) The concerned authorities shall at all times have full access to the property to undertake its inspection(s) while the work is underway and after it is completed.*

In no case will permission(s) be granted to persons having no right, title or interest to occupy the land in question.”

7. *Apart from above, the respondents shall ensure that the Solid Waste Management Bye-Laws are strictly implemented.*”

07. While going through the orders sheets on record, it reveals that this Court vide order dated 03.07.2021, confined the writ petition to its original subject matter i.e., the prevention of pollution of River Sindh and removal of illegal and unauthorised constructions in and around it. It is apt to reproduce the relevant portion of order dated 03.07.2021 hereunder:

“19. In view of the facts as culled out from the order sheets and narrated above, it is apparent that the PIL was initiated for the prevention of pollution of River Sindh and for removal of all unauthorised constructions in and around it. However, the scope of the PIL had been gradually enlarged by various orders of the Court by including the issues with regard to pollution of river Jhelum discharge of untreated sewage water into it, reduction of width of all rivers, Master Plan of Sonamarg (which is subject matter of OWP No.1010/2017), movement of vehicular traffic, pony trails, Thajiwas Glacier, Thajiwas Wild Life Sanctuary and preservation of the “Golden Meadows” of Sonamarg as also the location of the Golf Course in Sonamarg; establishment of solid waste management system; and pollution and preservation of Mansbal Lake.

20. The matter regarding maintenance and preservation of “Golden Meadows” of Sonamarg, Thajiwas Glacier, Thajiwas Wild Life Sanctuary, location of Golf Course, establishment of solid waste management system, development of integrated sewage treatment plant, places for parking, pony trails and vehicular traffic are all subjects which can more appropriately dealt with by the Court in OWP No.1010/2017 concerning the all round preservation and development of Sonamarg.

21. The quality of water of River Jhelum or as a matter of fact any matter which touches upon the environment is left to be dealt with in PIL No.345/2006 relating to Kashmir Environmental Protection v. State of J&K. The other aspects included in this PIL viz-a-viz the Mansbal Lake/ Mansbal Development Authority, pollution of Jhelum, breach of embankments of rivers and narrowing down the width of rivers are all matters which may be appropriate to be dealt with by the court in PIL No.159/2002 : Syed Iqbal Tahir Geelani v. State of J&K and others, relating to Lakes.

22. Thus, in order to avoid overlapping of issues, it is considered appropriate that henceforth all matters regarding

the above said subject matters shall be dealt with by the court separately in the above referred petitions and this petition would be confined to its original subject matter-the prevention of pollution of River Sindh and removal of illegal and unauthorised constructions in and around it.”

08. After passing of the aforesaid order confining the writ petition in hand to its original subject matter i.e., the prevention of pollution of River Sindh and removal of illegal and unauthorised construction in and around it, learned Amicus Curiae in order to prevent the pollution of River Sindh came out with certain suggestions which he was asked to record in black and white and place the same on record vide order dated 11.08.2021.

Accordingly, in pursuance of the aforesaid order dated 11.08.2021, learned Amicus Curiae submitted his suggestions with regard to protection and conservation of River Sindh, which read as under:

“1. The Sind River forms the Sind Valley. The source of the river lies in the Machoi Glacier at an elevation of 4800m, east of the Amarnath Temple and south of the Zoji La. The river also passes through the famous alpine hill station Sonamarg. It is also the only river in Jammu and Kashmir on which three hydroelectric power plants are functional. The waters of the river are used for irrigation by way of different canals and for domestic use.

2. Unfortunately, this important river is facing various threats due to the negligence of authorities. The river is facing the worst kind of pollution through constructions being undertaken at various places on the river beds and in fact at some place on the river itself for deriving natural pleasure by constructing hotels, tourist hut, resorts etc.

3. Therefore, in order to ensure that no construction activity takes place on the river bed and on the banks of the river, it is of utmost importance that proper demarcation of River Sindh be done by the Revenue Authorities and the same be notified to the general public by putting up sign boards along the course of the river.

4. A complete list of all the illegal constructions and the encroachers within 100 meters of the boundary of the River must be compiled to better assist the court in dealing with the issue.

5. Due to the severe encroachments around Sindh, the water quality of the river has depleted and the same needs to be monitored regularly by the J&K Pollution Control Committee. The water quality has a direct effect on the ecology of the river which is the natural habitat of trout, and various other fish. The

most famous among them are: brown trout, rainbow trout, snow trout, shuddgurn and Anyour.

6. Waste from dwellings and camps of security forces on the banks of the river, use of pesticides, DDT and insecticides by farmers also poses a threat to the ecology of the river.

7. Therefore, it is also necessary to develop liquid waste/ sewage treatment plants for treatment of waste before discharging it into River Sindh.

8. Also, the extraction of sand/ bajri by engagement of heavy machines needs to be banned or atleast controller to prevent adverse effects on the ecology of the River.

9. The provisions of Jammu and Kashmir Water Resources (Regulation and Management) Act, 2010 should be implemented in letter and spirit by the Irrigation and Flood Control Department.

10. Active involvement of Irrigation and Flood Control Department should be sought to ensure proper flood mitigation plans are in place.

11. The principle of Custodial egis as established by the orders dated 03.07.2012 and 30.05.2013 should continue to be followed for proper protection and conservation of the River Sindh.

Sonamarg-the Golden Meadow:

12. Although the Hon'ble High Court has already pointed out the various issues regarding the maintenance and preservation of "Golden Meadows" of Sonamarg, Thajiwas Glacier and Thajiwas Wild Life Sanctuary in the latest detailed order dated 03.07.2021, there are certain urgent issues that need to be addressed.

13. The Hon'ble High Court vide order dated 11.10.2017 directed to revise the Sonamarg Master plan but no inputs have been provided by respondents regarding the same. The Master Plan needs to be revised urgently and effectively so as to address the issues regarding the conservation and protection of the meadow.

14. The Master plan is necessary to address the establishment of solid waste management system, development of integrated sewage treatment plant, places for parking, pony trails and management of vehicular traffic.

15. The Zojila Tunnel project which envisages to construct a tunnel of 14.15 kms needs to be examined from an environmental point of view. A proper Environment Impact Assessment needs to be conducted by an Independent agency and the environmental costs need to be examined.

16. There are also reports of deforestation due to certain project which includes the Zojila tunnel Project undertaken by the National Highways Authority of India and Megal Engineering and Infrastructural Limited (MEIL) and as such the 'Polluter Pays Principle' must be applied and these companies and authorities be made accountable for their actions."

09. As stated above, this Court vide its order dated 22.10.2020, imposed certain conditions while considering applications for sanction of building/ construction/ renovation/ repairs in any building. The said order came to be clarified vide order dated 27.03.2023, operative portion of which reads as under:

“In view of the aforesaid and having regard to the orders passed by this Court in this PIL from time to time, we make it emphatically clear that there shall be no fresh activity of construction to be carried out in respect of any building or structure in the Sonamarg Development Area irrespective of whether there is any building permission granted for the purpose by any competent authority. Renovation/ Repairs permitted by this Court shall be carried out only after obtaining proper building permission from the BOCA, Sonamarg, which is approved by this Court as provided in order dated 28th December, 2022. The Chief Executive Officer, shall take immediate steps to stop all fresh constructions in the Sonamarg Development area.

Status report in terms of order dated 28th December, 2022 has been filed by Chief Executive Officer, a perusal whereof indicates that no fresh construction has been undertaken by any person in the Sonamarg Development Area.

We, however, direct the Chief Executive Officer, to ensure that no fresh construction in the Sonamarg Development Area is carried out with or without permission and in case it is brought to our notice that any fresh construction with or without permission from the competent authority is raised, by anybody in the Sonamarg Development Area, the Chief Executive Officer, Sonamarg Development Authority, shall be personally responsible and shall be proceeded for contempt of this Court.”

10. Pursuant to the order dated 16.10.2024, learned Amicus curiae has filed his detailed suggestions, which for ready reference are reproduced as under:

“Recommendations on behalf of Amicus Curiae for the protection and conservation of River Sindh and issues thereof:

Suggestions regarding Sonamarg Tourism Development Plan:

1. Provision of Mobile Toilets:

It is hereby proposed to install mobile toilets at various strategic locations within the Sonamarg region, thereby ensuring proper sanitation facilities for the convenience and welfare of visiting individuals.

2. Installation of Dustbins for Sanitation:

The installation of dustbins at designated points across the area is necessary to maintain cleanliness and prevent littering, thereby promoting hygienic conditions for both locals and tourists.

3. Development of Pony Tracks:

Designated pony tracks shall be developed to ensure the safe, regulated, and efficient movement of ponies, while concurrently safeguarding the environmental integrity of the area.

4. Establishment of Regulated Pony Stands:

It is essential to establish regulated stands for ponies, ensuring orderly management of the pony-riding trade and preserving the public order.

5. Creation of Eco-Parks for Locals and Tourists:

Recreational eco-parks for the local populace and visiting tourists must be established to ensure harmonious coexistence, accommodating the distinct needs of each group without conflict.

6. Provision of Garbage Collection Vehicles:

Dedicated vehicles for the systematic collection and disposal of waste shall be deployed to maintain cleanliness and orderliness in and around the key tourist zones.

7. Registration and Monitoring of Homestays:

A formal registration process shall be implemented for homestays, with ongoing monitoring to ensure compliance with quality standards. This will prevent any degradation of previously registered homestays and ensure a high standard of hospitality.

8. Training of Local Youth for Tourist Guide Roles:

Training programs shall be instituted to certify local youth as tourist guides, thereby providing them with a stable livelihood while enriching the tourism experience for visitors.

9. Construction of Eco-Friendly Infrastructure:

It is imperative to develop sustainable infrastructure, such as eco-lodges, solar-powered cabins, and glamping sites, to reduce the environmental foot-print while enhancing the visitor experience.

10. Introduction of Sustainable Transportation Options:

In order to minimize environmental harm, green transportation methods, including electric shuttles, bicycle rentals, and cable cars, shall be introduced, facilitating eco-conscious exploration of the area.

11. Promotion of Rural Tourism Initiatives:

Homestay programs and rural tourism shall be promoted to allow visitors to experience the traditional rural life and agricultural practices, fostering a deeper appreciation of local culture and livelihoods.

12. Development of Scenic Viewpoints:

To facilitate optimal enjoyment of the natural surroundings, scenic viewpoints and observation decks shall be created at key locations, ensuring that tourists are able to appreciate the breath-taking vistas of the area.

13. Establishment of Sustainable Souvenir Shops:

Eco-friendly souvenir shops, operated by local entrepreneurs, shall be set up to offer handmade crafts and sustainable products, thereby benefiting the local economy while promoting responsible tourism.

14. Community Involvement in Tourism Development:

Active participation by the local community in tourism-related initiatives shall be encouraged, through training, partnerships with local businesses, and cultural preservation efforts, ensuring that the economic and social benefits of tourism are equitably distributed.

15. Inefficiency of Tendered Contractors:

It has been observed that individuals awarded tenders for tourism-related projects have not executed their responsibilities in a satisfactory manner. The tender process, while ensuring competitive opportunities, must be reviewed to prevent malpractices and ensure timely and effective project completion.

16. Concerns Regarding Sanitation and Toilet Facilities:

There have been numerous complaints regarding the insufficient and inadequate toilet facilities across the entire Sonamarg region. The matter requires urgent attention and the implementation of a comprehensive plan to ensure proper sanitation in the area.

17. Absence of Fixed Taxi Rates:

It has been noted that the absence of fixed rates for taxi services causes confusion and inconvenience to tourists. This issue must be addressed to ensure fair pricing and enhance the tourist experience.

18. Improper Parking by Local Drivers:

Local drivers have been observed parking their vehicles in a manner that forces tourists to park on the road, despite the availability of designated parking spaces. This issue must be rectified to ensure smooth traffic flow and enhance the tourist experience.”

11. This Court vide order dated 16.10.2024 directed Mr. T. M. Shamsi, learned DSGI, to place on record S.O No.443 dated 31.12.2021 issued by the Department of Tourism Government of J&K and also disclose how much land has been earmarked for Sonamarg Development Authority and how much has been earmarked for the Army Authority.

12. In compliance with the said order compliance report has been filed affidavit 04.12.2024 stating there in that total land under the occupation of

the Army is 1397.65 kanals as per the details given in the affidavit. The copy of the S.O. No.443 placed on record disclose that land measuring 354 Kanals situated at Sonamarg as detailed in Annexure “B” to the said notification as “Strategic Areas” for operational and training requirements of Armed Forces.

13. During all these years the present writ petition remained pending before this Court, the respondents always reiterated that Master Plan 2005-2025 will be revised as per the directions of this Court passed from time to time but until now when the said Master Plan is going to expire in the month of June, 2025, the respondents failed to act in the matter and make revisions in the Master Plan.

14. This court vide order dated 03.12.2024 while observing that since the Master Plan is expiring in June 2025, thought it appropriate to seek personal appearance of the Commissioner Secretary Tourism and Commissioner Secretary Housing Department. Accordingly, the Special Secretary Tourism and the Chief Town Planner appeared before the Court and submitted that they have already initiated the process for drafting a new Master Plan. Therefore, an affidavit was directed to be filed disclosing the steps initiated for revising or drafting a new Master Plan and also the time line for finalizing the same.

15. Accordingly, pursuance of the order dated 03.12.2024, the Chief Town Planner, Town Planning Organisation, Kashmir, filed compliance affidavit dated 6th December, 2024. In the compliance it is stated that the matter has been taken up with the Tourism Department with regard to preparation/ revision of the Master Plan. It is further stated that the Tourism Department after notification of the extended area, if any, of the Sonamarg Development Authority, the Town Planning Organisation will start the preparation of the Master Plan for Sonamarg. The affidavit also provides the time lines for formulation of GIS based Master Plan Sonamarg 2025-45. At last, it is stated in the affidavit that after finalizing the boundaries of Sonamarg Development Authority by the Tourism Department, the Town Planning Organisation Kashmir, will provide the

technical support, for which it will take atleast minimum of one years for its completion.

It is apt to note here that in terms of affidavit dated 28th February, 2023 filed on behalf of Chief Executive Officer, Sonamarg Development Authority, in compliance to the order dated 28.12.2022, stated that the Government has already accorded sanction for formulation of Revised Master Plan of Sonamarg (2040) on outsource basis vide Govt. Order No.136-TSM of 2019 dated 16.05.2019.

16. The matter was accordingly, listed for consideration on 16.12.2024, on which date the parties were heard and the orders in the matter were reserved.

17. After hearing the learned counsel for the parties and after going through the pleadings on record as also the orders passed by this Court from time to time, this Court comes to the conclusion that the purpose and object of the present Public Interest Litigation is to preserve tourist destination from encroachments and pollution.

18. Since it is the duty of the officers at the helm of affairs to take action under law against the violators which we don't see are being taken. If that would have been the case, no violation would have been allowed in the area. However, it has been brought to the notice of the Court that respondents are in the process of formulating a new Master Plan 2025-45, as such, without keeping this writ petition pending, we deem it appropriate to dispose of this writ petition with the following directions:

- (a) Since the Master Plan in vogue is likely to expire in June, 2025, therefore, the respondents are directed to take all the requisite steps forthwith to finalise the Master Plan 2025-2045 and the same shall be completed by the end of August, 2025. While formulating the Master Plan for the area, the respondents shall take on board all the stakeholders and also keep in mind the orders passed by this Court from time to time as also the suggestions putforth by the learned Amicus Curiae in this regard.
- (b) The applications seeking constructions and repairs/ renovation of the existing structures shall be dealt with by the BOCA as per the

statutory requirements provided under the BOCA Act, while keeping in view the directions issued by this Court from time to time particularly the directions contained in order dated 22.10.2020. In case of any violation, the same shall be dealt with by the concerned authorities in terms of the applicable rules.

- (c) In so far as the encroachments and illegal constructions in the area are concerned, the same shall be removed in due course of law.
- (d) Since the Solid Waste Management Bye-Laws had been adopted and notified by notification dated 21 November, 2019. The respondents are directed to ensure that all the measures are taken for implementation of the said Bye-Laws in the area.
- (e) The commercial establishments in the area be asked to install the solid waste management treatment plants as per the norms in their premises so that all non-biodegradable waste is disposed of.

This writ petition in public interest along with the connected writ petitions as also the CMs are, accordingly, disposed of in the aforesaid directions.

Before parting with, we deem it appropriate to appreciate the efforts put in by Mr. Nadeem Qadiri, learned Amicus Curiae, for his hardwork and rendering proper assistance to this Court in deciding the matter.

(M. A. CHOWDHARY)
JUDGE

(TASHI RABSTAN)
CHIEF JUSTICE

Srinagar
03.01.2025
Abdul Qayoom, Secy.

Whether approved for reporting: **Yes**