

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through Virtual Mode)**

CJ Court

Case: PIL No. 8/2017
and connected matters

Environmental Policy Group

.....Petitioner(s)

Through :-

Mr. Nadeem Qadri, Amicus- curiae
Mr. Zakaria Rafiqi, Advocate
Mr. Shafqat Nazir, Advocate

v/s

Union of India and others

.....Respondent(s)

Through :-

Mr. T.M. Shamsi, DSGI with
Ms. Rehana Qayoom, Advocate
Mr. Jahangir Ahmed Dar, GA

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE**

**ORDER
29.05.2024**

1. Three PILs, namely, PIL Nos.2/2014, 8/2017 & 18/2018 have been clubbed together.
2. **PIL 2/2014** primarily deals with clearance and removal of encroachments from the vicinity of villages Rangpora, Daugerpora and Malbagh, which fall in the course of Padshahi Canal and the said canal has its origin from River Sindh in Ganderbal and passes through the aforesaid villages before finally terminating at Lal Bazar, Srinagar.

3. PIL 8/2017 deals with various issues and the measures sought to be taken to prevent any similar devastating floods, which had occurred in September, 2014, whereas, PIL 18/2018 relates to payment of compensation to be paid to the affected traders by the Insurance Companies on account of damages and loss suffered by them during the floods.

4. The aforesaid writ petitions filed in public interest call for our attention to avert/prevent a similarly devastating flood, which occurred in the valley of Kashmir around Jhelum river in the month of September 2014. This Court, on earlier occasions, after hearing the parties, has passed a number of directions from time to time, *inter alia*, highlighting the need for an immediate requirement of the demarcation of Wildlife Forests, Wildlife Sanctuaries, National Parks, Conservation Reserves and Wet Land Reserves as concomitant steps towards the main aim of preventing floods.

5. This Court vide order dated 24.11.2014, while dealing with the issue of encroachment upon the Canals, Flood Channels and the River Jhelum, after considering the response filed by the respondents, passed the following directions:

“The River Jhelum is the main aquatic life line in the Kashmir valley. Mr. Shuja, learned counsel for the respondents submitted that the said river comes within the purview of Irrigation and Flood Control Department.

The River Jhelum is one of the oldest rivers of the Kashmir Valley. Many civilizations have been set up on the banks of this River in its history of thousands of years. The insatiable human greed is bent upon to destroy this great River. A duty is cast upon the Chief Engineer and other

statutory authorities to ensure removal of all encroachments from the banks of River Jhelum along its entire course. The laws have to be enforced with all their vigour and force. Few individual's greed cannot be permitted to play havoc with the rights of the millions of people of the Kashmir Valley."

6. On the asking of the Court, another compliance report was filed on 23.02.2015 by the Chief Engineer, Irrigation and Flood Control, Kashmir in PIL No.2/2014, regarding the issue involved in the said PIL. The said compliance report reads as follows:-

"That as submitted in the compliance report on 09/02/2015, 43 encroachments were identified along Rangpora-Dangerpora branch of Padshahi Canal. Out of these 35 encroachments have been already removed and out of remaining (8) Structures, two (2) are mosque's and have not been touched in order to avoid any law and order problems. The remaining six (6) structures fall in vicinity of Green Valley Public School, and shall be removed as and when the portion falling under the Patwar Haiqa Baxhpura is demarcated by the concerned Revenue Authorities, who are being constantly requested to do the needful for further course of action. Further 1237, more trees have been cut down till date from downstream Pandach head works upto village Dan gerpora of Haiqa Baghati Shoora along the branch of Padashahi Canal to restore it to its original post/on. The people are also involved voluntarily in feeling of trees planted in and around of Padshahi Canal.

That so far as removal of encroachments from various water bodies are concerned, the Respondent Department as on date, have removed 233 boundary walls, 85 Pacca Structure, 206 Kacha Structure, Tin Sheds and 1,26,513, trees which includes 20424, trees from the banks of Rivers and other Canals. The Divisions wise breakup of demolition/ cutting down of trees is annexed as (Annexure-RI). And the process of removal of encroachments is on and shall continue till all the water bodies are made fully encroachment free.

That so far as information regarding the recorded width of River Jhelum is concerned, the said information has been received from all concerned District Development Commissioners. To this effect the concerned Executive Engineers have been directed to engage their concerned Revenue Staff to identify the boundaries of River Jhelum in accordance with the information provided by the Revenue Authorities and initiate the steps to retrieve the encroached portion of River Jhelum wherever required."

7. This Court, after perusing the aforesaid compliance report dated 23.02.2015 passed a comprehensive order on 24.02.2015 insofar as the issue of River Jhelum is concerned, by giving the following directions:

In order to ensure that all the encroachments are removed without any resistance from the Padshahi Bagh Canal, Deputy Commissioner, Srinagar, is directed to ensure that the area which is required. to be demarcated more particularly in Buchpora area of Srinagar shall be got demarcated within week's time from the date copy of this order is served upon him. Deputy Commissioner, Srinagar, to keep liaison with Chief Engineer, Irrigation and Flood Control, Kashmir, in this behalf:

Immediately after the demarcation of the area, the Chief Engineer, Irrigation and. Flood Control, Kashmir, shall ensure that all the encroachments are removed in the manner it is directed by the Court in terms of its earlier orders. The Chief Engineer I&FC, Kashmir, as also, the Deputy Commissioner, Srinagar, to report compliance before the next date.

The Court, in order to protect the water bodies in larger public interest, is pursuing this cause with the benign hope that the future generations, do not suffer because of extinction of these water bodies.

Though Chief Engineer, I&FC and other authorities have been directed to remove encroachments from all water bodies but desired results have not been achieved till date. The Chief Engineer, I&FC,

Kashmir, to report as to how and in which manner the encroachments are being removed from other water bodies falling within his jurisdiction.

Kashmir is known for its aquatic bodies. The insatiable greed of some people is bent upon to convert the heaven of this earth into a desert. Earnest efforts are required to be made to ensure that all such evil efforts are frustrated.'

As already noticed in the earlier orders, River Jhelum, one of the ancient rivers and lifelines of Kashmir, is also facing extinction because of the greed of some people. Steps have to be taken to restore river Jhelum to its original position and the glory which is attached to it has to be brought back.

The expression 'life' appearing in Article 21 of the Constitution of India does not relate to life of this generation only. The expression 'life,' is a continuous and ceaseless process. The water body is to be preserved and protected for sustaining lives, of those who have to come here on this planet in future as well. It becomes thus the constitutional obligation of this Court to not only protect and preserve the river Jhelum, but to restore it to its original position also.

In the compliance report it is stated that all the Deputy Commissioners have provided the, information to the Chief Engineer, I&FC about the original width of said river. In view of the said stand taken by the Chief Engineer, I&FC. the following directions, at, this stage are issued:-

A Committee headed by Divisional Commissioner, Kashmir, is constituted with Chief Engineer, I&FC Kmr., and Deputy Commissioners of Districts Anantnag, Pulwama, Srinagar, Bandipora and Baramulla, as its members. Besides this, the Senior Superintendents of Police of these districts shall also be the members of said committee.

The Divisional Commissioner, Kashmir, with the active assistance of Chief Engineer, I&FC, Kmr., and concerned Deputy Commissioners/SSPs shall, within, one week from the date of receipt of this order, initiate a drive for removing all the encroachments from the banks of river Jhelum. It shall be ensured by this Committee that the original width of the river Jhelum is restored. The

encroachments of whatever nature shall be removed without any compromise or laxity on the party of the members of the Committee/ authorized authorities.

Chief Engineer, I&FC, Kmr., and all the statutory authorities, under the Jammu and Kashmir Water Resources (Regulation and Management) Act, 2010, shall ensure implementation of the object of the Act and removal of all encroachments.

In order to accomplish the aforesaid noble purpose, initially four weeks' time is granted to aforesaid Committee-Authorities for removing the encroachments. The compliance report be filed before the next date.

Since, the Court is Custodia Legis of river Jhelum and other water bodies, no Court or Tribunal shall consider any suit/ application / appeal, and all such matters, if any, shall be filed before PIL Bench."

8. Having regard to the impervious approach of the respondents in handling this important issue, this Court vide order dated 07.04.2015 further observed as under:

"The compliance report has been filed. Perusal whereof would show that the Court directions issued from time to time, especially on 24.02.2015, have not been complied with. The authorities, who are otherwise under statutory / administrative obligation to perform their duties, are not showing the requisite response in implementing the statutory provisions and directions issued by the court from time to time. The authorities are required to show utmost sense of urgency in protecting the river Jhelum and other water bodies. The compliance report would show that the actual width, about which record is now available with the authorities, has not been identified by completing demarcation till date. The pace with which the authorities are proceedings in the matter would take decades to remove the encroachments from the banks of river Jhelum and for its restoration to its original width.

We are pained by the insensitive approach exhibited by the authorities, most of whom are sons of the soil, in preserving their own water bodies.

We were contemplating to initiate stringent action against the authorities for non-compliance of the Court directions but for the passionate submissions made by Mr. Chashoo, learned AAG, we, at this stage, defer initiation of action against the authorities. We hope that the authorities will perform their statutory / administrative obligation in performing their duties and will implement the Court orders without any fail. The lost glory of river Jhelum has to be restored to it. Besides this is, all other water bodies, including Padshahi Bagh Canal has to be restored to its original position.

We at the request of Mr. Chashoo give further two weeks time to the authorities for implementing the Court directions, failing which the, appropriate action will be initiated against them.”

9. In a bid to get the earlier orders passed by this Court implemented in its true spirit, this Court vide order dated 28.05.2015 issued directions to Deputy Commissioner, Anantnag as well as to Chief Engineer, Irrigation and Flood Control Department to the following effect:

"Deputy Commissioner Anantnag has filed compliance report in pursuance to court order dated 7th April 2015 and 28th April, 2015.

The compliance report is cryptic and vague. It doesn't detailed out as to which is the place wherefrom the encroachments have been removed.

The Deputy Commissioner Anantnag will file fresh status report giving all the necessary details and would indicate at which place where the encroachments have been removed from the banks of the River Jhelum in the area which falls within his jurisdiction. The Deputy Commissioner Anantnag to also give details about the original width of the River Jhelum in his district with further information whether the Jhelum has been restored to its original width.

The Deputy Commissioner Anantnag shall also remain present in person before the court on next date. Likewise all other Deputy Commissioner's shall file fresh status report. The Deputy Commissioner

Pulwama shall also appear in person on next date. Besides the aforesaid authorities Chief Engineer, Irrigation and Flood Control to also appear in person before the court on next date. Their presence is required to ensure that the River Jhelum is restored to its original width in the shortest possible time and all the encroachments are removed from the banks of River Jhelum. The Chief Engineer, Irrigation and Flood Control shall file status report, indicating there in that how and in which manner the banks of River Jhelum is being restored to its original width. The court in its order dated 26th November, 2014 and 24th February, 2015 has underlined the need of protecting and preserving the life line of Kashmir called Jhelum.

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The petitioner has filed an affidavit on 13th February, 2015. After going through the affidavit and photographs enclosed therewith, we are prima facie satisfied that the concerned authorities who are responsible for removing encroachments and preservation of the Pathshahi Bagh Canal are not only playing pranks with the court orders but also with the statute under which they are obliged to remove the encroachments. The Executive Engineer Irrigation & Flood Control, Ganderbal shall appear in person before the court on next date. In the meanwhile affidavit shall be filed by the said authorities as to what further action has been taken for removing of the encroachments. After hearing the Executive Engineer appropriate orders will be passed for initiating action both departmental as well as criminal case against all the officers."

10. However, this Court, on being disappointed, by the phlegmatic response of the respondents in handling a matter of such serious concern and consequence, vide order dated 10.06.2016 noted:

Meanwhile, all the authorities are directed to comply with the Court order passed from time to time in this PIL and file latest compliance report. It is further provided that wherever, responses have not been filed, same be filed before the next date. It is made clear that in case responses are not filed, the matter would be considered and appropriate orders will be passed on next date. All the concerned Deputy Commissioners are directed to ensure that no

construction of any kind is raised on the water bodies within their territorial jurisdiction.

It is made clear that in case of any breach of orders of the Court, the authorities concerned will be liable for punishment for committing contempt of the Court. Interim direction to continue.

The petitioner submitted that illegal constructions have been raised, on the banks of river Jhelum, but no action either preventing of raising of the said constructions or action for their demolitions is taken. Deputy Commissioner, Srinagar and Chief Engineer, I&FC Department to file detailed report about the allegation made."

11. Further on 09.06.2017, the following order was passed by this

Court:

"The compliance report filed on behalf of the Chief Engineer, Irrigation & Flood control Department is taken on record. It is now clear that the immediate term was defined as the period till the next flood season, in other words, till August September 2015. The short term was defined as within two to three years and the long term was defined as within 5 to 10 years. we have already indicated on the previous occasion that there have been over-runs in the implementation of the project. The end of the short term would be around August 2017 and it is for that reason that we had on the previous occasion indicated that at least Phase I of the short term should be completed before the beginning of September 2017.

From the discussion today, it appears that even this may not be possible in its entirety as the date that has been given to us is March 2018. We find this unacceptable.

We direct that all the concerned departments should work on the basis and on the assumption that there would be a flood in September 2017 of similar prepositions as of September 2014. Based on that assumption, they should take immediate steps to avert such situation which occurred in September 2014. One of the immediate steps which they can take is to enhance the capacity of the spill channels.

A detailed report with regard to that be submitted before the next date of hearing. The Chief Engineer, Irrigation & Flood Control Department, shall give a presentation on the next date of hearing indicating clearly as to what plans he has in order to avert a situation like September 2014 from occurring this year.

The learned Advocate General informs us that the authority under the J&K Water Resources Regulatory Act would be established and would be in place within two weeks from today.

We shall take up the issue of encroachment along the river banks/water channels/tributaries on the next date of hearing.”

12. We have also taken note of the fact that in the subsequent order dated 11.09.2017, this Court had directed that there should be no construction activities in any of the areas mentioned in the aforesaid order, however, this Court has drawn a blank so far, as nothing has been brought to our notice as to whether action, if any, has been taken by the concerned authorities regarding the construction or prevention thereof. In the said order, this Court had directed the concerned authorities to re-establish the network between the Jhelum, streams, wetlands and lakes and that such an exercise be taken up immediately.

Paras 5 to 8 of the said order read as under:-

5. We are also informed that the maps indicating the Wildlife Protected Area Network comprising of National Parks, Wildlife Sanctuaries, Conservation Reserves and Wetland Reserves spread across the Kashmir Region are ready. In fact, some of the maps were shown to us. The said maps are also available on the website of the Department of Wildlife. The KMZ files would also be shortly uploaded on the said website. The

learned Amicus Curiae shall study the same and make his submissions thereafter.

13. In our previous order, we had also nominated the Commissioner! Secretary to Government, Forest Department, J&K Government, to be the nodal authority to ensure that the demarcation is carried out by all the agencies. Apart from that we had also directed that there should be no construction activity in any of these areas. However, no status with regard to existing constructions/ on-going constructions has been submitted to this court. That be submitted before the next date of hearing.

7. We had also directed the concerned authorities to re-establish the network between the Jhelum, the streams, the wetlands and the lakes and that such an exercise be taken up immediately. The Commissioner! Secretary to the Government, Public Health Engineer, Irrigation and Flood Control Department, was required to submit a plan of action as also action taken, if any. That has not happened. The learned Advocate General submits that there was some misunderstanding and the same has been sorted out and the said plan of action and the action taken, if any, shall be submitted before the next date of hearing.

8 Mr. Naik, the learned counsel appearing on behalf of the Northern Railway, submits that he shall also be filing copies of the Environmental Impact Assessment Report along with the Environmental Management Plan, so that the learned Amicus Curiae may examine the same and make any submissions, if necessary.

13. Further, on 18.08.2017 while going through the status report filed by the respondents, this Court has observed as under:-

We have also gone through the status report filed by the principal chief conservator of Forests, J&K(Srinagar/ Jammu) which was essentially in response to the map at page 152 of PIL No.08/2017.7.he response gives the details of the map and as to how

the network of the streams, lakes and wet and are inter connected with the River Jhelum. It is obvious from an examination of the detailed report that one of the major causes for the flooding of the river Jhelum was the disruption in the network of streams which are inter connected with not only the river but also the lakes and the wetlands. Another major cause of concern is the large scale deforestation, which has led to loose soil, which, either through rains or through melting snow, finds its way into the catchment areas and ultimately into the Jhelum. The result being that the loose soil ends up as silt in the river as well as in the lakes which are connected with the Jhelum, raising the floor/bed level of these water bodies and thereby reducing the carrying capacity of the entire water system. It is, therefore, imperative that not only the deforestation should be halted but also uncontrolled grazing of grass lands at higher altitudes needs to be regulated. A forestation should, also be taken up in right earnest so that the erstwhile forests are restored to their original positions.

The Commissioner-secretary to Government, Forest Department J&K Government, shall be the nodal authority to ensure that the demarcation is carried out by all the agencies. We also direct that the demarcation be carried out using the latest GIS technology so that we are clear as to what is supposed to be the area covered by each of the National, Parks, Wildlife Sanctuaries, conservation Reserves and Wetland Reserves and what exists in reality. We have already said so before and we are reiterating that no further construction activity shall be carried out in any of these areas and there shall be a total ban, which is the requirement of law.

We also direct the concerned authorities to re-establish the net work between the Jhelum, the streams, the wetlands and the lakes and to undertake immediate exercise in that behalf immediately. The Commissioner- Secretary to the Government, Public Health Engineering-irrigation and Flood Control Department shall submit its plan of action and action taken before the next date of hearing.”

14. Thereafter, this Court vide order dated 07.02.2018 has noted that to avoid any further devastating floods like that of 2014, all canals which, in fact, are tributaries leading to river Jhelum are required to be restored to their original position by removing all encroachments and the river Jhelum is also required to be restored to its original position. Besides this, the Deputy Commissioners have also been directed to ensure filing of latest status regarding removal of encroachment from the canals existing in their respective jurisdictions. The present progress of dredging and removal of encroachments from the banks of river Jhelum shall also be reported.

15. This Court, vide order dated 10.11.2020, after going through the various orders passed earlier by this Court, issued the following directions.

*“In view of the nature of controversy involved, we direct the **Divisional Commissioner Kashmir** to file an affidavit on record with regard to the following facts:*

(i) The ownership of the land on which the construction is coming up with effect from 1947. Copies of the revenue record shall be enclosed;

(ii) The status of this land after the flooding of River Jhelum in September, 2014, detailing therein what happened to the land and extent to which it was flooded in the occurrence;

(iii) The constructions which have been permitted to come up on the land with effect from 1947; the complete details of permissions so granted in chronological order. Copies of all relevant records shall be enclosed.

(iv) In case the Divisional Commissioner Kashmir requires any assistance or information from any other authority, he shall seek the same from the concerned departments who shall cooperate with him and forthwith make available relevant information.

(v) Such affidavit shall be positively filed before the next date of hearing.

The **J&K State Pollution Control Board** shall file an affidavit with regard to the permission granted by it to owner of the structure in question regarding discharge of sewage I treated effluents from any STP into the River Jhelum. The copies of application(s), permissions granted to the owner / builder shall be placed on record before us before the next date of hearing.

The **Inspector General of Police, Traffic**, shall inform this Court as to the permission granted by it to raise a commercial structure at the spot in question and the plan in place for management of the burden on the traffic which will result due to coming up and operationalisation of this commercial structure at the site in question.

The **Divisional Commissioner Kashmir** shall conduct an inquiry and place before us the permission sought to Inland Waterway Authority of India before the next date of hearing.

The **Srinagar Municipal Corporation**, the Revenue Department and the Irrigation and Flood Control Department shall also file affidavits before this Court with regard to the permission(s) granted to it for construction of a multi-storeyed commercial building which is barely about between 10 to 15 feet from the banks of the River Jhelum. Copies of applications and permission be placed before us before the next date of hearing. These authorities shall place before this Court, details of the permissions which have been granted by it to construction of similar structures along the banks of the River Jhelum Mr. B. A. Dar, learned Sr. AAG, shall also place before this Court tabulation of all orders passed by this Court prohibiting or permitting constructions in or around the flood plains, flood channels and the River Jhelum. The affidavits and status reports in this regard shall be filed before us positively before the next date of hearing.

In view of the above, we direct that till this Court considers the matter and passes appropriate orders, no construction / renovation / completion etc. at all of any kind shall be carried out on the building in question.

The **Divisional Commissioner Kashmir** shall ensure that this direction is complied with.”

16. In order to effectively deal with the issue of encroachment of River Jhelum, this Court vide order dated 26.09.2021 in paras 10 and 11, deemed it apt to observe as under:

“10. Appreciating the efforts of the respondents in assisting the court by submitting reports in compliance of the orders of the Court, we now expect that Divisional Commissioner, Kashmir who is heading the Committee constituted by the Court to furnish a fresh status report as to the actions taken by the Committee with details of the meetings. The Chief Engineer, Irrigation & Flood Control Department is directed to submit in a tabulation form the entire exercise his department has taken right from the time of initiation of this PIL till date with reference to the original length and breadth of the River and the Padshahi Canal and their present status regarding the number of encroachments removed, and the steps that are being taken in that regard.

11. The respondents shall also place before the Court a complete roadmap which they propose to implement for the cleanliness, preservation and the development of the River and the canals. Specific report may be called for from each of the Deputy Commissioners of the districts referred to above who are members of the Committee with regard to the position of the river and the canal existing in their district concerned.”

17. The conspectus of the aforementioned orders passed by this Court from time to time would reveal that the respondents have not truly appreciated the seriousness of the issues involved in these PILs, as is apparent from the perusal of various compliance reports submitted by them.

18. Today, when the matter was taken up, Mr. Nadeem Qadri, Amicus Curiae has drawn our attention to the order passed by this Court on 18.08.2017, whereby, this Court directed the concerned

authorities to immediately carry out demarcation of the National Parks, Wildlife Sanctuaries, Conservation Reserves and the Wetland Reserves, which find mention in page 5 of the status report dated 17.08.2017 filed by the Principal Chief Conservator of Forests, J&K, Srinagar/Jammu. Learned Amicus Curiae further submits that an important National Park 'Kazinag National Park' located in north Kashmir, Uri, Baramulla District along with two Wildlife Sanctuaries, namely, Limber Wildlife Sanctuary and Lachipora Wildlife Sanctuaries as well as Naganari Conservation Reserve seem to have been, inadvertently, left out in the aforesaid status report, which would also require proper demarcation. It is further submitted by the learned Amicus Curiae that in spite of the order passed by this Court on 18.08.2017, nothing apparent has been done for demarcation of the aforesaid locations mentioned in the said order.

19. Accordingly, we are of the view that the aforesaid Wildlife Sanctuaries and Conservation Reserves be also properly demarcated.

20. Consequently, the respondent-UT of J&K is directed to file an affidavit by or before the next date of hearing regarding the steps taken for demarcation, as directed by this Court on 18.08.2017 alongwith the additional locations mentioned above.

21. What is of prime importance for this Court is to prevent the possibility of recurrence of such a devastating flood, which had occurred in September, 2014 for which a number of directions have been issued by this Court, including directions issued on 18.08.2017

and 11.09.2017. This Court, vide order dated 9.10.2017 with regard to the directions issued from time to time particularly on 18.08.2017 and 11.09.2017 reminded the authorities that the Court is not powerless in matters involving public interest. It was further observed that this Court is sufficiently empowered to take such action which would constrain the authorities to follow the dictates of law. The Court, however has adopted an approach to enable the authorities to rectify their mistakes so that precipitative action is avoided. The concerned authorities were directed to comply with the directions in the above mentioned two orders within ten days.

22. It has been brought to our notice that Government of India had actually disbursed a sum of Rs.399.29 crore for flood management.

23. From the perusal of the status report submitted by the Union of India on 13.01.2022, it is apparent that the Government of India has released funds of Rs. 4,1323.17 lakhs towards various projects as mentioned in para 19 of the aforesaid status report details whereof are reproduced hereinbelow:

S. No.	Code of Schemes under FMP	Name of Project	CA released up to 08/21 Rs. In Lakh
1.	JK-03	Improvement to flood Spill Channel of river Jhelum Phase-1 (J&K) under FMP	1,289.83
2.	JK-06	Flood Control/Anti-Erosion work on Lidder Nallah Phase 2 nd (in Distt. Anantnag)	494.94
3.	JK-07	Flood Control Anti-Erosion work on VESHOW RIVER Phase 2 nd (in Distt. Kulgam)	630.15
4.	JK-08	Flood Control Anti-Erosion Work on Vethwathroo and Kanday Nallahs, Kashmir (in Distt. Anantnag)	292.81
5.	JK-09	Flood Control Anti-Erosion work on Sandran, Wankran and Sasara Nallahs (in Distt.	606.08

		Pulwama)	
6.	JK-10	Flood Control Anti-Erosion work on Kalaroos, Pohru, Talri and Vij Nallahs, (in Distt. Baramulla and Kupwara)	230.62
7.	JK-11	Flood Control Anti-Erosion work on Hammal, Binner, Dakhil & Hapatoar Nallahs	636.89
8.	JK-12	Flood Control Anti-Erosion work on tributaries of Jhelum in Shangus, Bijbehara and Dooru Constituencies, Kashmir (in Distt. Kulgam)	578.06
9.	JK-13	Flood Control Anti-Erosion work on tributaries of Lidder Nallah Pahalgam Constituency, (in Distt. Anantnag)	616.5
10.	JK-14	Flood Control Anti-Erosion work on Aripal, Laam, Satoora, Mandoora Devar and Watalra Nallahs, Kashmir (in Distt. Pulwama)	563.01
11.	JK-18	Drainage Development/enhancing flood channel capacity at critical reaches of river, Jhelum bunds Phase-II from Sonwar to Dubji Ghat (Gawkadal) District Srinagar	860.65
12.	JK-20	Flood threats of Jhelum river. Urgent works Srinagar and other districts of Jammu and Kashmir.	8735.00
13.	JK-21	Construction of Flood Protection Works on various nallahs in Block Boniyar	531.40
14.	JK-22	Construction of Flood Protection works on various nallahs in Block Uri	530.90
15.	JK-23	Construction of Flood Protection Hapath Khai Trikanjan Nallah, Nowshera Nallha, Pahipora yarwan Nallah, Naganari Zehanpora Nallah of Block Boniyar District Baramulla	530.40
16.	JK-40	Erosion control and flood protection works on Khemil Nallah District Kupwara	563.44
17.	JK-41	Construction of FPW and anti-erosion works on Doodganga Nallah District Budgam	652.45
18.	JK-42	Erosion control and FP works on critical reaches of Sandran Nallah/Vethethroo Nallah, District Anantnag	550.54
19.	JK-43	Priority Works Comprehensive Plan fr Flood Management on Jhelum Phase-1 under FMP	22429.49
		Total	4,1323.17

24. The said status report also states that the respondents Government of India has not received utilization certificate for the aforesaid amount till 2021.

25. Apart from this, it has also been brought to our notice that Comptroller and Auditor General of India (CAG) report though not part of these pleadings has indicated that there have been serious financial irregularities.

26. In this view of the matter and keeping in mind the impending monsoon season and likelihood of floods, the following directions are issued to the respondents:

(I) Respondents shall file a detailed affidavit detailing what steps they have taken in terms of the aforesaid orders passed by this Court from time to time.

(II) The respondent-UT of Jammu and Kashmir shall furnish utilization certificates in respect of the amount to the tune of Rs.4,1323.17 lakhs released by Union of India for various projects undertaken by UT of Jammu and Kashmir.

(III) Latest compliance report be filed in terms of order dated 10.06.2016 in which this Court, *inter alia*, directed all the concerned Deputy Commissioners to ensure that no construction of any kind is raised near the water bodies within their territorial jurisdiction, which shall also include details in tabulated form qua the encroachments removed on the River Jhelum.

(IV) Respondent-UT of Jammu and Kashmir is further directed to state by way of filing Action Taken Report detailing therein what preventive measures they have taken and are also

envisaging in order to deal with the precarious issue of floods in Kashmir, in view of impending monsoon season.

(V) The respondent-UT of J&K is further directed to file an affidavit by or before the next date of hearing regarding the steps taken for demarcation, as directed by this Court on 18.08.2017.

27. Let the aforesaid reports be filed within a period of three weeks before this Court.

28. Keeping in view the sensitivity attached to the issues discussed above, it is made clear that if the needful is not done within the stipulated time period, this court, in that eventuality, would be constrained to take coercive steps against the respondents.

29. List again on 20.8.2024.

(WASIM SADIQ NARGAL) (N. KOTISWAR SINGH)
JUDGE CHIEF JUSTICE

JAMMU
29.05.2024
Bir