

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

Case: CM No. 4980/2026 in
LPA No. 173/2026
WP(C) No. 987/2026 c/w
CCP(s) No.215/2026

Reserved on 04.08.2026.
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Full Judgment is
pronounced

LPA No.173/2026

UT of Jammu & Kashmir and another
Vs
Indian Kayaking and Canoeing
Asso.& another

WP(C) No. 987/2026

Indian Kayakind and Canoeing Asso.
vs
UT of Jammu and Kashmir and ors

CCP(S) No. 215/2026

Bilquis Mir vs Dr. Shahid Iqbal
Choudhary & ors

Through :- Mr. Najmi Waziri Sr. Advocate with
Mr. Arbaaz Khan Advocate in WP(C)
No. 987/2026
Mr. Faheem Nissar Shah G.A. in LPA
No. 173/2026
.....appellants/petitioner(s)

Through :- Mr. Najmi Waziri Sr. Advocate with
Mr. Arbaaz Khan Advocate for R-1 in LPA
No. 173/2026
Mr. Khawaja Siddiqui Advocate for R-2 in
LPA No. 173/2026
Mr. Faheem Nisar Shah G.A. for R 1-2 in
WP(C) No. 987/2026
Mr. Najmi Waziri Sr. Advocate with
Mr. Arbaaz Khan Advocate in WP(C)
No.987/2026respondents.

CORAM:
HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

JUDGMENT

CHIEF JUSTICE (A)

CM No. 4980/2026

This is an application seeking condonation of delay of 23 days in filing the accompanying Letters Patent Appeal against an interim order dated 06.05.2026. Learned counsel appearing for the respondents has no objection to the prayer made in the application.

Having regard to the averments made in the application and the fact that the delay is only of 23 days, coupled with the no-objection on behalf of the respondents, the application is allowed. The delay of 23 days in filing the accompanying appeal is hereby condoned.

The application stands disposed of.

LPA No. 173/2026

1 This intra-Court appeal is directed against an interim order dated 06.05.2026 passed by the learned Single Judge ['Writ Court'] in WP(C) No.987/2026, titled '*Indian Kayaking and Canoeing Association v. UT of J&K and others*', whereby respondent Nos.1 and 2 were directed to accord provisional permission to respondent No.3 to enable her to discharge her duties as Chief Coach of the Indian National Kayaking and Canoeing Team for the Asian Games, 2026, and to travel to Hungary to officiate as Chief Finish Line Judge at the 2026 ICF Canoe Sprint World Cup scheduled from 08.05.2026 to 10.05.2026. It was,

however, made clear that the provisional permission granted to respondent No.3 would be at her own risk and cost and shall abide by the final outcome of the writ petition.

2 When the appeal was taken up for consideration today, learned counsel appearing for the parties jointly submitted that the writ petition itself could be finally disposed of. Accordingly, with their consent, the Registry was directed to list WP(C) No.987/2026 along with the present appeal for final disposal.

WP(C) No.987/2026

3. Briefly stated, the facts leading to filing the writ petition are that the petitioner-Association is one of the National Sports Federations governing the sport of Kayaking and Canoeing in India. It is responsible for promoting the sport, organizing national and international competitions, conducting coaching camps and selecting athletes, coaches and technical officials for representing the country in international events, including the Asian Games, World Championships and the Olympics, with financial support from the Sports Authority of India. In discharge of its functions, the petitioner appointed respondent No.3, Ms. Bilquis Mir, as the Chief Coach of the Indian National Kayaking and Canoeing Team for the preparatory programme leading to the Asian Games, 2026, for the period from 15.02.2026 to 30.09.2026. The appointment was made on account of her merit, experience and internationally recognised expertise in the discipline.. The petitioner thereafter addressed a communication dated 03.02.2026 to respondent No.2, Director General, Youth Services and Sports, J&K, requesting the later to relieve respondent No.3 to enable her to join the National Coaching Camp. As no decision was taken, reminders dated 01.03.2026 and 02.04.2026 were also addressed, highlighting the national importance of the assignment.

4. It is the case of the petitioner that despite repeated requests, respondent Nos.1 and 2 failed to take any decision, thereby preventing respondent No.3 from discharging her duties as Chief Coach of the Indian National Team. According to the petitioner, such inaction has adversely affected the preparation of the Indian team for the forthcoming international competitions. The petitioner has further pleaded that, in similar circumstances, another coach, Ms. Joshua Yohannan working with Sports Authority of India (SAI), was relieved by the competent authority to participate in the 2026 ICF Canoe Slalom World Ranking Toyota Open Asian Games Test Event. It is, therefore, contended that respondent No.3 has been subjected to discriminatory treatment despite being duly appointed as Chief Coach of the Indian National Team. It is further pleaded that respondent No.3 was invited to officiate as Chief Finish Line Judge at the 2026 ICF Canoe Sprint World Cup at Szeged, Hungary, from 08.05.2026 to 10.05.2026, which, according to the petitioner, was a matter of international recognition for Indian sports. Respondent No.3 is stated to be an internationally acclaimed sportsperson, coach and technical official, who has represented the country and rendered distinguished service to the discipline over the years.

5 On the aforesaid premises, the petitioner has contended that the inaction of the respondents in considering its request is arbitrary, unreasonable and detrimental to the interests of Indian sports, compelling it to invoke the writ jurisdiction of this Court.

6. Upon notice, the respondents entered appearance through their learned counsel and filed their objections. The main ground taken by the respondents is that the writ petition is misconceived and not maintainable, inasmuch as respondent No.3 is a Government employee governed by the Jammu and Kashmir Government Employees (Conduct) Rules, 1971, the applicable Service Rules and

the Government instructions regulating foreign travel, station leave and outside engagements. It is contended that mere appointment or nomination by the petitioner-Association as Chief Coach or Technical Official does not confer any enforceable right to seek issuance of a No Objection Certificate, relieving order or permission to undertake foreign assignments. Such permission is always subject to fulfilment of the prescribed statutory requirements like vigilance clearance etc., administrative exigencies and the satisfaction of the competent authority. It is further pleaded that the petitioner-Association has no *locus standi* to espouse the service rights of respondent No.3, which is an exclusive bilateral affair between respondent No.3 and respondents No.1 and 2. The respondents also allege suppression of material facts, asserting that respondent No.3 has deliberately withheld from the Court the fact that she is facing a departmental inquiry initiated vide Order dated 31.07.2025 regarding unauthorized foreign visits and other service-related issues. It is further pleaded that, on an earlier occasion, respondent No.3 undertook foreign visits without prior permission, despite her request having been turned down due to her failure to furnish the requisite documents necessary for processing vigilance clearance.

7. According to the respondents, the request of respondent No.3 was examined strictly in accordance with the circular dated 21.02.2019 issued by the Finance Department, a circular issued by the General Administration Department dated 13.02.2021, the Jammu and Kashmir Government Employees (Conduct) Rules, 1971 and the applicable vigilance clearance procedure. However, in view of the pending departmental inquiry, non-submission of the requisite documents and the absence of vigilance clearance, Government Order No.25-JK(YSS) of 2026 dated 19.06.2026 came to be issued declining permission for her proposed foreign visits. It is further pleaded that respondent No.3 was appointed as a Physical

Education Teacher in the Department of Youth Services and Sports in the year 2009 and, after serving on deputation with the erstwhile J&K State Sports Council, was repatriated to her parent department in the year 2023. Despite such repatriation, she allegedly continued to participate in national and international sporting assignments without obtaining prior approval of the competent authority, in violation of the applicable Conduct Rules and Government instructions.

8. The respondents assert that respondent No.3 had undertaken several foreign visits during the year 2024. Although her request for permission had been declined for want of compliance with the prescribed procedure, including submission of documents required for vigilance clearance, she proceeded abroad, leading to issuance of a show cause notice and the constitution of a Fact Finding Committee to inquire into her conduct.. It is, accordingly, contended that permission to travel abroad is neither automatic nor a vested right but is subject to compliance with the statutory rules, executive instructions, vigilance clearance, pending disciplinary proceedings and administrative exigencies. Since respondent No.3 failed to satisfy the prescribed requirements, the competent authority had no option, but to decline the permission in accordance with law.

9. In the parawise reply, the respondents have substantially reiterated the aforesaid stand and denied the allegations of arbitrariness, discrimination and inaction. It is submitted that the request of respondent No.3 was duly considered in accordance with the applicable statutory provisions and Government instructions and that no legal or fundamental right of the petitioner or respondent No.3 has been infringed so as to warrant issuance of a writ of mandamus.

10 Learned counsel for the petitioner has submitted that the petitioner-Association is the Apex National Sports Federation governing the sport of Kayaking and Canoeing in India and is entrusted with the responsibility of

selecting athletes, coaches and technical officials for representing the country in international sporting events. It is contended that respondent No.3, an internationally acclaimed coach and technical official, was appointed as Chief Coach of the Indian National Kayaking and Canoeing Team for the preparatory programme leading to the Asian Games, 2026, purely on the basis of her merit, experience and expertise. It is argued that despite repeated communications requesting the respondents to relieve respondent No.3 for the National Coaching Camp, no decision was taken, thereby seriously affecting the preparation of the Indian team. Learned counsel further submitted that another coach, Ms. Joshua Yohannan, was relieved by the competent authority for a similar international assignment and, therefore, denial of similar treatment to respondent No.3 is arbitrary, discriminatory and violative of Article 14 of the Constitution. It is also contended that respondent No.3 was invited to officiate as Chief Finish Line Judge at the 2026 ICF Canoe Sprint World Cup in Hungary, which is a matter of international recognition for Indian sports. The continued inaction of the respondents, it is urged, not only prejudiced respondent No.3 but also adversely affected the interests of Indian sports. It is, accordingly, prayed that the respondents be directed to grant the requisite permission and relieve respondent No.3 to enable her to discharge the aforesaid assignments.

11 *Per contra*, learned counsel appearing for the respondents submits that respondent No.3 is a Government employee governed by the Jammu and Kashmir Government Employees (Conduct) Rules, 1971, the applicable Service Rules and the Government instructions regulating foreign travel and outside engagements. It is argued that appointment by the petitioner-Association does not confer any enforceable right upon respondent No.3 to claim a No Objection Certificate, relieving order or permission to travel abroad. It is further contended that the writ

petition itself is not maintainable at the instance of the petitioner-Association, which has no locus standi to espouse the service rights of respondent No.3. It is submitted that respondent No.3 is facing a departmental inquiry relating to unauthorized foreign visits and other service-related issues and that her earlier request for foreign travel had also been declined for non-compliance with the prescribed procedure. It is argued that the request of respondent No.3 was considered strictly in accordance with the Finance Department Circular dated 21.02.2019, the General Administration Department Circular dated 13.02.2021, the Jammu and Kashmir Government Employees (Conduct) Rules, 1971 and the applicable vigilance clearance procedure. Since respondent No.3 failed to fulfil the prescribed requirements and was also facing departmental proceedings, the competent authority rightly declined permission vide Government Order No.25-JK(YSS) of 2026 dated 19.06.2026. It is therefore submitted that permission to undertake foreign travel is neither automatic nor a vested right and remains subject to the satisfaction of the competent authority in accordance with the applicable statutory rules and executive instructions. It is, accordingly, prayed that the writ petition be dismissed.

12 Heard learned counsel for the parties and perused the material on record.

13 The primary question that arises for consideration is whether respondent No.3, who is admittedly a Government employee serving in the Department of Youth Services and Sports, can claim, as a matter of right, permission to discharge the assignment entrusted to her by the petitioner-Association and to undertake foreign travel in connection therewith. There is no dispute that respondent No.3 has been appointed by the petitioner-Association as the Chief Coach of the Indian National Kayaking and Canoeing Team for the

preparatory programme leading to the Asian Games, 2026, and has also been nominated to officiate as Chief Finish Line Judge at the 2026 ICF Canoe Sprint World Cup. Equally undisputed is the fact that respondent No.3 continues to be a Government employee borne on the establishment of the Department of Youth Services and Sports and, therefore, is governed by the Jammu and Kashmir Government Employees (Conduct) Rules, 1971, the applicable Service Rules and the Government instructions regulating foreign travel and outside engagements. Merely because respondent No.3 has been nominated by the petitioner-Association for the aforesaid assignments does not, by itself, confer upon her an enforceable legal right to claim a direction from this Court for issuance of a No Objection Certificate, relieving order or permission to travel abroad. Such matters lie within the administrative domain of the employer and are required to be considered in accordance with the governing statutory rules and executive instructions. That being so, the petitioner-Association cannot compel the Government of Union Territory to relieve respondent No. 3 so as to enable her to take up an assignment outside her service.

14 There should be no dispute with regard to the fact that the arrangement under which the services of respondent No.3 could be requisitioned by the petitioner-Federation is by way of deputation. Respondent No.3 is a permanent Government employee of the Union Territory of Jammu and Kashmir and, therefore, respondents No.1 and 2 are her employer. The petitioner does not have a better status than that of a borrowing department. The placement of the services of a permanent Government employee outside her cadre in another Department of the Government, a Public Sector Undertaking or a Government-owned Corporation, including entities like the petitioner, could, therefore, only be by way of deputation. It is difficult to comprehend that a borrowing department

can compel the employer to spare the services of its employee for utilisation thereof in sporting activities of national or international repute. While this Court acknowledges the great contribution that may have been made by respondent No.3 to the cause of sports in India and abroad, yet she cannot be permitted to violate the discipline of Government service and leave her employment temporarily to take up assignments outside her duties without the consent of her employer.

15 From the clear stand taken by respondents No.1 and 2 and upon perusal of the contemporaneous record maintained in the office of respondent No.3's employer, it is writ large that she has shown a defiant attitude on many occasions and has undertaken foreign visits without the prior permission of her employer. We cannot forget that the petitioner is only a Sports Federation and possibly a society registered under the Societies Registration Act, and not an entity owned and run by the Government. While we can appreciate the requirement of the services of respondent No.3 by the petitioner in the larger interest of the sport of Kayaking and Canoeing, yet we cannot countenance the conduct of respondent No.3, which at times has been unbecoming of a Government employee. In the absence of any mechanism put in place by the Ministry of Sports, Government of India, and the Sports Authority of India laying down enforceable guidelines for the Government of India, the Governments of various States and the Union Territories for lending the services of their employees for the cause of sports, the National Sports Federations, on their own, cannot dictate terms to the State and UT Governments to necessarily lend the services of their employees/sportspersons, particularly when there are valid reasons for the Government or the Union Territory, as the case may be, not to spare the services of its employee. We have found one thing interesting in the instant case, in that the very appointment of respondent No.3 in the Department of Youth Services and Sports as Physical

Education Teacher was made in relaxation of the Rules and, probably, keeping in view her outstanding performance in sports. She was obliged to acquire the basic eligibility qualification, i.e. B.P.Ed., prescribed for the post of PET. From the stand of the respondents and the record produced before us by respondents No.1 and 2, we could not find that respondent No.3 ever qualified the B.P.Ed. or acquired eligibility to hold the post of PET.

16 It is, thus, well settled that a mandamus lies only to enforce a legal, statutory or public duty, and the petitioner has a corresponding legal right. Deputation is based on the consent and administrative discretion of the lending Government/Authority, the consent of the borrowing Organisation/Federation, and the consent of the employee, if required by the applicable Rules. Viewed thus, it can be said without any fear of contradiction that no right vests in the borrowing Organisation/Federation to requisition the services of an employee, that too without the consent of his/her employer, unless such course is supported by a statutory provision. The State Government/UT Government is well within its right to consider its own administrative requirements, shortage of staff, public interest, policy and the conduct of a particular employee before lending the services of such employee to the borrowing Department.

17 The Courts may interfere where the decision taken by the State Government or the UT Government is, on the face of it, arbitrary, *mala fide*, discriminatory or contrary to the statutory rights. Therefore, if a Sports Federation like the petitioner merely argues that an employee is essential for promoting sports or serving the national interest, but there is no statutory obligation on the State/UT Government to spare the employee, a writ of mandamus would not lie. National interest may be a relevant consideration, but it cannot create a legal duty where none exists. It is in this background, we have observed that it is high time that the

Government of India, Ministry of Youth Services and Sports, along with the Sports Authority of India, devise a policy which may or may not have a statutory backing, but which obliges the Central Government, State Governments and the UT Governments to spare their employees (outstanding sportspersons) to facilitate their participation in national and international events. A charter of Rules framed in this regard would mitigate the hardship of National Sports Federations and would also serve as a clear guideline to be followed by the various Governments and the Public Sector Undertakings, etc.

18. Coming to the specific facts of this case, the record reveals that the request of respondent No.3 was considered by the competent authority. It further transpires that, at the relevant point of time, an inquiry was pending against respondent No.3 in relation to allegations of unauthorised foreign visits and other service-related issues. The respondents have clearly pleaded that the requisite vigilance clearance could not be processed on account of non-submission of the prescribed documents. It is in these circumstances that Government Order No.25-JK(YSS) of 2026 dated 19.06.2026 came to be issued, declining the request for permission to undertake the proposed foreign visits.

19. It is well settled that the scope of judicial review under Article 226 of the Constitution is confined to examining the legality of the decision-making process and not the merits of the decision itself. Unless the action of the competent authority is shown to be arbitrary, mala fide, irrational or in violation of any statutory provision, this Court would not substitute its own decision for that of the statutory authority. The plea of discrimination founded on the case of Ms. Joshua Yohannan is equally without substance. Article 14 embodies a positive concept of equality. A claim of discrimination can succeed only when the person relied upon is shown to be similarly situated in all material particulars. The respondents have

specifically pleaded that the case of respondent No.3 stood on a different footing in view of the pending departmental inquiry, the issues relating to vigilance clearance and compliance with the applicable Conduct Rules. In the absence of any material demonstrating parity of circumstances, no case of hostile discrimination is made out.

20. We, however, find substance in the grievance of the petitioner that its request remained unattended for a considerable period. Administrative authorities are expected to deal with such requests with reasonable promptitude, particularly where they relate to assignments involving national and international sporting events. Delay in taking a decision may prejudice not only the concerned employee but also the larger national interest. However, once the competent authority has taken a decision and passed a reasoned order, the grievance regarding delay pales into insignificance and the validity of the decision has to be tested on its own merits.

21 As noticed above, the competent authority has passed Government Order No.25-JK(YSS) of 2026 dated 19.06.2026, rejecting the request of respondent No.3. The said order constitutes the foundation of the respondents' action. Unless the order is shown to be vitiated by arbitrariness, mala fides, non-application of mind or in violation of the applicable statutory provisions, no mandamus can be issued directing the respondents to grant permission contrary to the governing rules. Permission to undertake foreign travel by a Government employee is not a vested or indefeasible right. It is regulated by the applicable statutory rules, executive instructions, administrative exigencies, vigilance clearance and, where necessary, the pendency of disciplinary proceedings. The competent authority is required to balance the individual claim of the employee

with the larger interests of public administration. Judicial review in such matters remains limited.

22 In the facts and circumstances of the case, therefore, no enforceable legal right has been shown to exist in favour of the petitioner or respondent No.3 so as to warrant issuance of a writ of mandamus directing the respondents to accord permission for the assignments in question. The challenge, if any, has to be directed against the order passed by the competent authority on grounds known to law and not on the premise that such permission ought to have been granted as a matter of course.

23. In view of the foregoing discussion, we are of the considered opinion that the petitioner has failed to establish any enforceable legal right warranting issuance of a writ of mandamus. The appointment of respondent No.3 by the petitioner-Association, though reflective of her professional competence and achievements in the field of sports, cannot override the statutory service conditions applicable to her as a Government employee. The competent authority was justified in examining the request in the light of the applicable Conduct Rules, Government instructions and the relevant circumstances, including the pendency of departmental proceedings and absence of requisite clearances. We, therefore, find no ground to interfere with the decision taken by the respondents. The writ petition, being devoid of merit, is accordingly dismissed. The interim order dated 06.05.2026 passed by the learned Single Judge shall stand vacated. There shall, however, be no order as to costs.

24 Before parting with the matter, we direct the Government of India, Ministry of Youth Services and Sports, to come up with some statutory or other enforceable framework to deal with the problems of the like nature as are presented in this case, so that there are set, enforceable rules and guidelines to regulate the

deputation of Government employees (outstanding sportspersons) by their employers, i.e. the Central Government, State Governments/UT Governments or Public Sector Undertakings, to the National Sports Federations recognised by the Government of India, so that the services of such outstanding sportspersons/employees are placed at the disposal of the concerned National Sports Federation in time, so as to facilitate their effective participation in national and international sporting events.

LPA No. 173/2026

25. Having regard to the final adjudication rendered in WP(C) No.987/2026, whereby the writ petition has been dismissed and the interim order dated 06.05.2026 has been vacated, nothing survives for consideration in the present appeal. Consequently, the present intra-Court appeal is rendered infructuous and is, accordingly, disposed of.

CCP(s) No.215/2026

26 This contempt petition has been filed alleging non-compliance of the interim order dated 06.05.2026 passed by the learned Single Judge in WP(C) No.987/2026 titled *Indian Kayaking and Canoeing Association v. UT of J&K and others*, whereby respondent Nos.1 and 2 were directed to accord provisional permission to respondent No.3 to enable her to discharge her duties as Chief Coach of the Indian National Kayaking and Canoeing Team and to undertake the international assignment mentioned therein. The interim order dated 06.05.2026, compliance whereof is alleged in the present proceedings, was an interlocutory arrangement and was made subject to the final outcome of the writ petition. Once the writ petition has been dismissed, the interim order has merged with the final order and stands vacated. In view of the final disposal of the writ petition and

vacation of the interim order dated 06.05.2026, no further proceedings survive in the present contempt petition. The proceedings in this contempt petition are, accordingly, closed.

(MOHD. YOUSUF WANI)
JUDGE

(SANJEEV KUMAR)
CHIEF JUSTICE(A)

JAMMU
11.08.2026
SANJEEV

Whether judgment is reportable: Yes