

HIGH COURT OF JAMMU AND KASHMIR

ORDER

No.: 1638/NG

Dated:- 22.05.2020

Subject: Change of court timings.

1. A practice of change of timings of court functioning in the Jammu and Srinagar Wings' of the High Court and the District Courts in the Summer Zone of the UT of J&K from 8.am to 1.30 pm from May to end of September (known as the '*Summer Timings*') has been placed before me for taking a decision. I am informed that a similar practice of following the court timing of 11.00 a.m. to 4.00 p.m. from November to end of April is followed in the Srinagar Wing and District Courts in the Winter Zone.
2. Before taking a decision in the matter, I had deemed it appropriate to take the views of all learned Sister and Brother Judges of the High Court. In response, views have been received from nine judges only. Only three learned judges supported the change to '*Summer timings*', while six (five in writing, one orally) do not support the past practice of change of timing. One out of the six views suggests slight change in timing. No views stand expressed by the others.
3. One view which has been received gives no reason other than just conveying that the practice of summer timing be continued.
4. The President of the Jammu and Kashmir High Court Bar Association, Jammu, Mr. Abhinav Sharma, met me and also submitted his views in writing on the subject. The learned President has supported the change in timings it being a past practice.

5. The matter was also discussed with the Principal District Judges of the eight districts in the Summer Zone of the Jammu region along with representative office bearers from their respective Bar Associations on video conferencing. The change of timings was not pressed by any of the discussants in the video conferencing.

6. I have also had occasion to discuss the matter with the judicial officers in the Registry, several judicial officers in different districts and large number of officers in the registries.

Timing change is a 'past practice'

7. So far as the protagonists for continuation of the practice of change of timings are concerned, one of the reasons for this support also is that it was "*past practice*".

8. It appears that the genesis of the change of timings for the courts in Jammu & Kashmir was the practice of change of timings followed by the erstwhile Government of the State of Jammu and Kashmir. A Government Order No. 1267-GAD of 2018 dated 13.08.2018 has been placed before me whereby this practice of change of timings stands abandoned by the Government of the Union Territory of Jammu and Kashmir.

9. The fact the Government itself has done away with the practice of change of timing is extremely pertinent. The very basis for change of timings by courts has been taken away.

10. As a result of the Govt. order dated 13.08.2018, if the courts were to change working timings, no Govt. official or Govt. records would be available to any court before 10 A.M. It would render it impossible to hear writ petitions against the Government in the High Court and valuable judicial timing would be wasted in passing over matters to await officials, Govt. instructions and records.

There would be similar wastage of time in the trial courts as well for this reason.

Harsh Weather conditions – hence change of timing

11. Another reason propounded for continuing with the past practice is the weather conditions in the plains of Jammu region during the summer.
12. This reason, however, is not supported by the practice followed. It appears that in the past “*Summer Timings*” were followed from end of April to end of September every year, way beyond what is considered as summer in any part of the country.
13. Similar “*Winter Timings*” followed from beginning of November to end of April are way beyond the winter season.
14. To gain some insight, I have examined the practice followed in the Supreme Court of India and all the 25 High Courts as also the weather conditions all over the country.
15. The Supreme Court of India (located in Delhi which sees temperatures from April almost till November which are, much higher than those in Jammu,) functions from 10.30 am to 4.30 pm throughout the year without any change. The Registry of the Supreme Court of India functions from 10 am to 5 pm.
16. The timings of courts all over the country (as per detailed list enclosed), except in one State, remain uniform round the year. There are only minor regional variations with regard to the commencement of the sittings.
17. The only exception with regard to the universal rule of uniform timings round the year is the Rajasthan High Court which follows the court timings between 10.30 am and 4.30 pm except for three months only between April-June when the timings of court sitting is changed from 8 am to 1 pm. This divergence emanates from the geographical location of the State in the desert, which

consequentially experiences exceptionally harsh summers with temperatures going well over 50° C.

It is not so in any part of Jammu and Kashmir.

18. The High Court of Bombay at Mumbai has court sittings from 11 am to 5 pm which timing, I understand, is attributable to the time involved and difficulties in commuting in the city. The other three Benches of the High Court in Nagpur, Aurangabad and Goa and all other courts in Maharashtra (despite temperatures again way above that experienced in Jammu) sit from 10.30 to 4.30 round the year.

19. Information from relevant meteorological sources discloses that temperatures in Orissa, Tamil Nadu, Maharashtra, Gujarat, Punjab & Haryana and Delhi, amongst other States and Union Territories, are much higher than the maximum in the hottest part of the Union Territory of Jammu and Kashmir.

Yet all courts in these States/Union Territories follow the same timings all year round.

20. Many of these courts have much larger litigation loads than the courts in Jammu and Kashmir and work efficiently round the year without change of timings.

21. Given the proximity of the Summer Zone districts to the Winter Zone Districts in Jammu and Kashmir with high mountaineous features, the temperatures anywhere in the Union Territory do not reach the high levels as are reached in several other parts of the country. Even if they rise, the Summer Zone Districts have an added advantage of expeditious lowering of temperatures, on account of their proximity to the mountains.

Loss of court working time and inefficiency introduced in the system – justifies maintenance of uniform timings

22. In the past, the summer timings which was adopted in the districts in the summer zone courts in Jammu and Kashmir, was from 8.30 am to 1.30 pm, thereby reducing the court working hours to four and a half hours, instead of the mandatory five hours, for six months at a stretch every year. This timing was followed from May to end of September of each year.

23. So far as office hours are concerned, the Registry in the Jammu Wing of the High Court also was working from 8 am to 2 pm, which also comes to reducing working hours to only four and a half during this period which again reduces working time half an hour every day.

24. Similarly upon change of timings, the subordinate courts in the Summer Zone of the Jammu Province (except courts located at Kishtwar, Batote, Banihal, Gool, Bani, Ukhral and in the Judicial District Baderwah) were sitting only from 8 am to 1.30 pm (with a break). The Subordinate courts in the Kashmir Province and courts located at Kishtwar, Batote, Banihal, Gool, Bani, Ukhral and in the Judicial District Baderwah were sitting from 10 am to 4.30 pm (with a break). The trial courts of Union Territory of Ladakh follow from 10 am to 4.30 am (with a break of half an hour) w.e.f 1st May.

25. Similarly working hours of the High Court in the Srinagar Wing and the District Courts located in Winter Zones were cut from November to April by one hour, again leading to loss of precious judicial time to the time of half an hour every day.

26. I find that there is no change of court timing in the Himalayan States of Himachal Pradesh and Sikkim which experience similar weather conditions as the Kashmir winter.

27. Even the fabled "*Chille Kalan*" (chilly weather) in Kashmir is for only about one month from 21st December to 31st January. Similarly the "*Chille bacha*" is from 1st February to 15th February. Despite this, the practice followed in the past of change of timings to "*winter timings*" was for five months.

28. I am informed by the learned judges who have worked as judicial officers that when posted in a district in the Summer Zone which comprised predominantly rural areas, litigants were rarely able to reach the courts early in the mornings. As a result, the courts in these districts are compelled to ordinarily pass over cases till after 9.30 am awaiting appearance of parties/lawyers. Two hours of precious judicial time on each working day was completely wasted.

29. I am informed that, even in courts in urban areas, every morning almost two and a half hours are wasted awaiting lawyers and litigants. As a result, in hardly any case recording of evidence and final hearings were conducted.

30. The resultant loss of court time and the inefficiency introduced by the change in timings justifies maintenance of uniform timings.

Ensuring equal access to courts to all litigants

31. Access to justice is a basic fundamental right of a citizen. Both Wings of the High Court cater to litigants from remote parts of the Union Territories of Jammu and Kashmir and even Ladakh.

32. Cases in the eight District Courts (falling in the Summer Zone) in the respective headquarters, are filed not only by litigants from the city where the district headquarter is located, but by people from the further most corners in the district.

33. Many lawyers from other districts have also filed cases in the Jammu or Srinagar Wings of the High Court. Their difficulties have to be factored while fixing court timings.

34. My enquiry has revealed remoteness of towns and villages in each of the eight districts. A tabulation of the particulars of the districts, some remote places; distance from the District Headquarter and also the time which it would take for people to these places to reach the district headquarters, shown to me, is enclosed herewith.

35. The Jammu Wing of the High Court and the Jammu District Courts thus has to provide for litigants from distant places, say for people coming from Khour in Akhnoor 53 kms away. In addition Dudu in Udhampur is located 99 kms away; Nowgam in Ramban is at a distance of 55 Kms; Chaklas in Reasi is 83 kms away; Sarthal in Kathua is 191 kms away; Dogrian in Poonch 57 kms; Budhal in Rajouri is at a distance of 60 kms, from the respective District Headquarters.

36. I have been told that to reach Kathua from Sarthal takes over 6 hours, while from Nowgam, it would take a lawyer or a litigant over 5 hours to reach Ramban. Even to reach Udhampur from Dudu, it would take at least 4 hours. It is clearly impossible for a lawyer or a litigant from any of these places to reach the District Courts in time for a hearing to commence at 8 a.m. or even 8.30 a.m.

37. It is the same position in the courts where timings are changed in the winters.

38. Ought litigants from these areas be deprived of their fundamental right to seek relief and redressal for their grievance and justice dispensation? The answer has to be in the negative.

39. Clearly ensuring the constitutional rights of every citizen is the primary duty of every judge and any practice which impedes or negatively impacts the same cannot be perpetuated.

Difficulty to lawyers, litigants, court staff

40. I am told that in the Jammu Wing, a large percentage of the staff members are coming daily from districts including Reasi, Udhampur, Samba and even Kathua. On account of insufficient and inefficient availability of public transport, this court staff finds it extremely difficult to make arrangements and reach the court punctually, if the timings are changed to earlier settings.

41. If the court timing is changed to "*Summer Timings*" as in the past, it would synchronize with the timings of schools and academic institutions. This change puts tremendous pressures on families (including court staff, lawyers, litigants) with school going and college going children as they would be required to get the children ready for schools and colleges while having to simultaneously prepare for leaving homes to attend to their duties/court hearings. This difficulty gets exacerbated where cooking and housekeeping duties in the families stand assigned to women court employees/lawyers.

42. Public transport used for travelling is not available so early in the day, especially in the districts.

43. Such difficulties are faced by all these persons who use public transport even if they are residing within the boundaries of Jammu.

44. The earlier court timings may work extreme difficulties to lawyers, litigants and staff with disabilities who would be expected to be needing some extra time in making their preparations before leaving home.

Lack of cohesion in working between the two regions

45. It has been pointed that from the months of May to October, on account of the differential working hours of the two Wings of the High Court, it is almost impossible to conduct administrative meetings of the High Court judges; to

complete compilation of data from the two Wings of High Court and District Courts which, in some cases, are required to be transmitted urgently to the Supreme Court and government.

This is yet another reason for following the uniform timings in all courts in the Union Territory of Jammu and Kashmir. In any case, timings close to each other in the two wings of the High Court.

Difficulties to Judges and lawyers – impact of changed timings

46. Several judges in all courts spend time in the morning reading the 'peshi' for the day or files of those cases reserved for judgments. Many even use the morning time for dictating judgments. The change in the 'summer' schedule deprives such judges of the valuable time essential for efficient justice dispensation.

47. Several lawyers also do serious chamber work including reading briefs, conferences with clients and discussions/briefing with junior colleagues in the morning time. This would not be possible if timings were changed and is another reason for following uniform timing.

48. The inefficiency which had resulted on account of differential summer timings experienced in the district courts in the State of Haryana compelled abandoning the practice of differential timing there.

Poor judicial infrastructure – supports change of timing

49. Another reason put forth in support of the change in timing is that Jammu and Kashmir has poor judicial infrastructure, especially in the district judiciary. This by itself cannot be a reason for depriving the large number of litigants who would be unable to reach the courts if the past practice of changing timing was

implemented. Furthermore several steps have been taken and are being taken to improve the judicial infrastructure.

50. In the discussions with the Principal District Judges and the members of the Bar, they have been asked to take immediate steps for ensuring such facilities as are necessary to cope with the needs of summer months and to ensure availability of drinking water and coolers.

51. Similar measures have been mentioned for courts falling in the Winter Zone. Difficulties, if any, on account of poor infrastructure are being urgently addressed. No such grievance has been made by any of the district judges or the lawyers representatives.

Disruptions in court functioning in Jammu and Kashmir as well as Ladakh

52. The Union Territories of Jammu and Kashmir and Ladakh have seen an incomparable disruption of work for the last 9 months since August 2019. The lockdown on account of COVID-19 infection containment has brought life to a grinding halt since 24th March 2020. Court functioning and justice dispensation has taken a real toll inasmuch as only urgent matters are being heard. Even these are impeded by the lack of digitized record and inefficient video conferencing facilities. No cases requiring final evidence and long arguments are being heard at all.

All systems and practices which impede expedition in judicial dispensation or bring inefficiency to judicial functioning are, therefore, required to be staunchly abjured.

53. Even after easing of lockdown restrictions, courts may not be able to resume full functioning as social distancing would remain the norm in court functioning as well.

54. On account of movement restrictions, which may remain in force, judges, lawyers, litigants (who want to appear in cases) as well as staff members may not be able to travel from the Jammu region to the Srinagar region, and vice versa or to and fro Ladakh. Or even from one part of a district to another, to join in court hearings.

55. Per force of necessity, hearings have to be enabled in one Wing of the High Court even of matters which have been filed and registered in the other Wing.

56. On account of the lockdown, judges assigned rosters in the Srinagar Wing have been unable to leave Jammu. As a result, hearing of urgent cases by them, has to be enabled in Jammu.

There is no option but to ensure that the working of both Wings is synchronised.

Conclusion

- (i) Looked at from all aspects, any practice which reduces court timings from the required five hours, or results in wastage of court time, cannot be permitted.
- (ii) The practice in erstwhile State of Jammu and Kashmir to change court timings for five months from May to October and from November to end of April in Jammu and Kashmir each year is not justifiable in view of the above discussions.
- (iii) Courts all over the country follow a uniform practice of maintaining the same timing round the year irrespective of the weather.
- (iv) The weather conditions in the Union Territory of J&K are not exceptional to justify change of timings.
- (v) The change of timing brings inefficiency into judicial functioning, reduces court sitting time and is not in the best interest and welfare of the lawyers, litigants, court staff and negatively impacts valuable constitutional rights of litigants.

57. In view of the above, it is directed as follows:

For the High Court

Wing	Registry/Office timing			Court Timing		
	Ist Session	Break	2 nd Session	Ist Session	Break	2 nd Session
Jammu	9.30 A.M. to 1.00 P.M.	1.00 P.M. to 2.00 P.M.	2.00 P.M. to 4.30 P.M.	10.00 A.M. to 1.00 P.M.	1.00 P.M. to 2.00 P.M.	2.00 P.M. to 4.00 P.M.
Srinagar	10.00 A.M. to 1.00 P.M.	1.00 P.M. to 2.00 P.M.	2.00 P.M. to 5.00 P.M.	10.30 A.M. to 1.00 P.M.	1.00 P.M. to 2.00 P.M.	2.00 P.M. to 4.30 P.M.

For all District Courts and subordinate courts in the Union Territories of Jammu & Kashmir and Ladakh

Division	Office timing			Court Timing		
	Ist Session	Break	2 nd Session	Ist Session	Break	2 nd Session
Jammu	9.30 A.M. to 1.00 P.M.	1.00 P.M. to 2.00 P.M.	2.00 P.M. to 4.30 P.M.	10.00 A.M. to 1.00 P.M.	1.00 P.M. to 2.00 P.M.	2.00 P.M. to 4.00 P.M.
Kashmir & Ladakh	10.00 A.M. to 1.00 P.M.	1.00 P.M. to 2.00 P.M.	2.00 P.M. to 5.00 P.M.	10.30 A.M. to 1.00 P.M.	1.00 P.M. to 2.00 P.M.	2.00 P.M. to 4.30 P.M.

58. The above timings shall take effect with effect from 01st June 2020.

Sd/-
(GITA MITTAL)
CHIEF JUSTICE

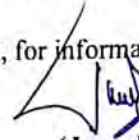
No.: 45027-45135/NG

Dated: 22.05.2020

Copy to the:-

1. Advocate General, UT of J&K, Jammu
2. Secretary General, Supreme Court of India, New Delhi
3. Secretary to Government, LJ&PA, Union Territory of Jammu & Kashmir, Civil Secretariat, Jammu.
4. Secretary to Government, LJ&PA, Union Territory of Ladakh, Leh.
- 5-26. Registrar General, High Court of _____
27. Principal Secretary to Hon'ble the Chief Justice, High Court of J&K,
28. Registrar Vigilance, High Court of J&K, Jammu.
29. Registrar Rules, High Court of J&K, Jammu.
- 30-31. Registrar Judicial, High Court Wing, Srinagar/Jammu.
- 32-53. All Principal District & Sessions Judges of the Union Territories of J&K and Ladakh for information and necessary action with the request to circulate the order amongst all the Judicial officers under their jurisdiction.
- 54-55. President, Bar Association, High Court, Jammu/Srinagar.
- 56-57. Addl. Advocate General, J&K, Srinagar/Jammu.

- 58-65. Secretary to Hon'ble Mr./Mrs. Justice _____
66. Bench Secretary to Her Lordship Hon'ble the Chief Justice
67. Accountant General, J&K, Jammu/Srinagar.
68. Dy. Accountant General, J&K, Jammu/Srinagar.
69. Director Information, Jammu.
70. Central Project Coordinator, e-Courts, High Court of J&K, Jammu, for uploading the same in the High Court Website.
- 71-92. Secretary, Bar Association, Jammu / Udhampur / Kathua / Rajouri / Poonch / Baderwah(Doda) / Samba / Reasi / Kishtwar / Ramban / Srinagar / Budgam / Anantnag / Baramulla / Kupwara / Pulwama / Leh / Kargil / Kulgam / Anantnag / Shopian / Bandipora.
- 93-95. Station Director, Doordarshan Kendar. Jammu/Srinagar/Leh, for announcement.
- 96-98. Station Director, Radio Kashmir, Jammu/Srinagar/Leh, for announcement.
- 99-100. Sr. News Editor, Doordarshan Kendra, Srinagar/Jammu, for announcement.
- 101-102. Post Master General, Srinagar/Jammu
103. Treasury Officer, Civil Secretariat, Jammu.
- 104- 105. Protocol Officer, High Court, Jammu/Srinagar
- 106-107. Manager, Government Press, Jammu/Srinagar, for Publication in the next issue of Government Gazette.
108. Chief Accounts Officer, High Court of J&K, for information and necessary action


24/05/2020
(Jawad Ahmed)

Registrar General (Officiating)