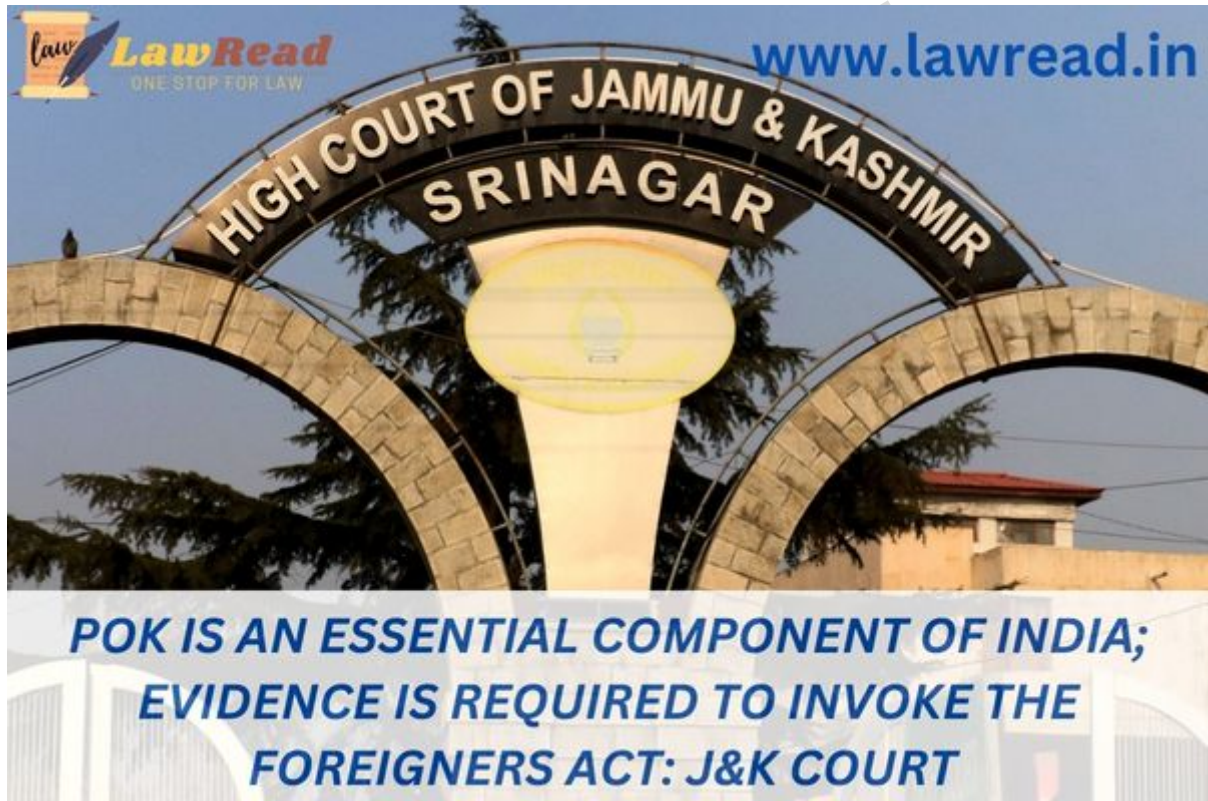


News

POK is an essential component of India; evidence is required to invoke the Foreigners Act: J&K court



The Court noted that although POK is illegally occupied by another nation, it is still an essential part of India and is not a part of Pakistan.

In the case of State/UT of J&K V/s Mohammad Maqbool Rather and Ors., a Court of Judicial Magistrate noted on Thursday that Pakistan-occupied Kashmir (POK) is an integral part of India and that the Foreigners Act's provisions cannot be invoked in the absence of convincing and trustworthy documentary evidence proving foreign nationality or illegal entry.

Syed Tayoub Bukhari, Judicial Magistrate 1st Class at Chadoora, noted that POK is not a

part of Pakistan but is still an essential part of India despite being illegally occupied by another nation. As a result, the Foreigners Act could not be applied to the accused in this particular case. In order to prove illegal entry, arms training, or a breach of the Foreigners Act, the prosecution has not produced any documentary evidence, including travel records, information about border crossings, recovery memos, intelligence inputs, or any other type of proof. Furthermore, POK is an essential component of India and has been unlawfully taken by Pakistan. Consequently, the accused individuals have not been drawn to the aliens act, the Court noted.

The case started because it was alleged that Mohammad Maqbool Rather, the accused, had traveled to POK twenty years prior, obtained military training, got married there, and then returned to Jammu and Kashmir with his wife, Parveena Akhtar, and kids without proper documentation.

A case was filed under Sections 2/3 of the Enemy Agents Ordinance/E&IMCO and Section 14 of the Foreigners Act based on information purportedly obtained by police in August 2012.

2018 saw the filing of a charge sheet and the formulation of charges following the conclusion of the inquiry. But the accused demanded a trial and entered a not guilty plea.

Eight witnesses were called by the prosecution during the trial. Nevertheless, just two witnesses were questioned despite multiple opportunities. Importantly, the investigating officer never appeared in court. As a result, in June 2025, prosecution evidence was closed.

During cross-examination, one of the prosecution's witnesses acknowledged that he was not personally aware that the accused had traveled to Pakistan, while another witness withdrew his previous testimony and declared that the accusations made against the accused were untrue and unfounded.

The testimony against the accused was deemed untrustworthy or hearsay by the court.

Following the conclusion of more than ten years of trial processes, the Court noted that the prosecution's case was mostly based on hearsay and unfounded accusations.

Only two of the eight prosecution-cited witnesses were questioned, and the judge pointed out that important witnesses, such as the investigating officer, were never brought before the court.

Additionally, the Court noted that the prosecution did not present any documentary evidence to prove illegal entry, weaponry training, or a breach of the Foreigners Act, including travel records, information of border crossings, recovery memos, intelligence inputs, or any other material.

The Court emphasized well-established criminal law principles and noted that suspicion, no matter how serious, cannot take the place of proof beyond a reasonable doubt. The prosecution's case was deemed to be doomed by the investigating officer's non-examination, the lack of relevant evidence, and the inability to prove the fundamental elements of the accused offenses.

As a result, both of the accused were cleared of all allegations, their bail bonds were released, and instructions were given for the release of any property that had been seized.