

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

LPASW No. 17/2018

Dated: 3rd of October, 2023.

Imran Ahmad Khan

... Appellant(s)

Through: -

Mr Bhat Fayaz Ahmad, Advocate.

V/s

State of Jammu & Kashmir and Ors.

... Respondent(s)

Through: -

Mr Sajjad Ashraf Mir, GA; and
Ms Tuba Manzoor, Advocate vice
Mr B. A. Bashir, Senior Advocate.

CORAM:

**Hon'ble Mr Justice Tashi Rabstan, Judge
Hon'ble Mr Justice Rahul Bharti, Judge**

(JUDGMENT)

(Tashi Rabstan-J):

01. This *intra* court appeal is directed against a judgment/ order dated 9th June, 2016 passed by the learned Single Judge in a writ petition filed by the writ petitioner/ appellant herein bearing SWP No. 2748/2011, whereby the said writ petition stands dismissed.

02. The brief facts of the case are that a Primary School, Peer Takiya, Y. K. Pora was upgraded to the status of Middle School. An advertisement notice was issued by the respondent No.3 on 14th December, 2010, thereby inviting applications from the eligible candidates having educational qualification of 10+2 and above in the Math as also Science background from the concerned habitation for the post of ReT Teacher.

03. It appears that, while one post in the Math stream was filled up, but the post in the Science stream had remained vacant on account of non-availability of eligible candidate at the habitation level.

04. Resultantly, the respondents decided to invite applications on revenue village basis for the aforesaid post of ReT Teacher in the Science stream. A notification dated 29th December, 2010, in this regard, was issued, whereby applications were invited afresh from the revenue village Y. K. Pora for the post of ReT Teacher in the Science stream.

05. In response to the said advertisement notice, only one candidate viz. the respondent No.5 herein had applied and was consequently selected.

06. Aggrieved of the said appointment of the respondent No.5, the writ petitioner/ appellant challenged the same through the medium of writ petition bearing SWP No.2748/2011. The learned Single Judge, vide judgment/ order dated 9th June, 2016, dismissed the writ petition filed by the writ petitioner/ appellant.

07. We have heard the learned Counsel for the parties, perused the pleadings on record and have considered the matter.

08. From the perusal of the record, what transpires is that the learned writ court, while dismissing the writ petition filed by the petitioner/ appellant herein, has observed that the writ petition has been filed as late as in November, 2011, whereas the order of appointment was issued in favour of the respondent No.5 as early as on 28th of February, 2011 and, therefore, the writ petition appears to have been an afterthought. It is also forthcoming that the official respondents, in their reply affidavit filed before the writ court, had clearly stated that the writ petitioner/ appellant had never ever applied to the aforesaid post of ReT Teacher in pursuance of the advertisement notice in question. The writ petitioner/ appellant did not file any rejoinder to the stand so taken by the official respondents for controverting the same and, thus, in such circumstances, the observations

and findings recorded by the learned writ court in the impugned judgment cannot be said to be perverse or erroneous.

09. We had pointedly asked the learned Counsel for the writ petitioner/ appellant to show us the copy of the receipt of the application claimed to have been submitted by the writ petitioner/ appellant before the official respondents in response to the relevant advertisement notice or, for that matter, disclose the date of filing of the same, which he could not do. The writ petitioner/ appellant could not, either before the writ court or before this court, establish the fact of him having responded to the relevant advertisement notification nor has any reference been made to any objection having been filed by the writ petitioner/ appellant to the select panel so prepared by the official respondents.

10. In view of the foregoing analysis, we do not find any reason whatsoever to show indulgence to interfere with the impugned judgment passed by the learned Writ Court. The present appeal is, thus, found to be without any merit. The same is, accordingly, **dismissed**, along with the connected CM(s). Interim directions(s), if any subsisting as on date, shall stand vacated.

11. There shall, however, be no order as to costs.

(Rahul Bharti)
Judge

(Tashi Rabstan)
Judge

SRINAGAR

October 3rd, 2023

"TAHIR"

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| i. | Whether the Judgment is reportable? | No. |
| ii. | Whether the Judgment is speaking? | No. |