

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKHAT SRINAGAR**

**CPOWP No.752/2017 in
OWP No.846/2017
CM No.941/2023**

MS. ASIMA MUZAFFAR **...PETITIONER(S)**

Through: Mr. Z. A. Qureshi, Sr. Advocate, with
Mr. Agha Faisal, Advocate.

Vs.

MR. SIMRANDEEP SINGH **...RESPONDENT(S)**

Through: Mr. A. R. Malik, Sr. AAG with
Mr. Mohammad Younis, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

(ORDER)(ORAL)

22.12.2023

1) The petitioner, through the medium of instant petition, has sought initiation of contempt proceedings against the respondent for having violated order dated 21.08.2017 passed by the Writ Court whereby the respondent was directed to supply to the petitioner the requisite information as was directed by the State Information Commission vide order dated 3rd January, 2013.

2) It is pertinent to mention here that vide direction dated 03.01.2013 passed by the State Information Commission, the J&K State Service Selection Board was directed to provide to the petitioner the following documents:

*(1) Final award sheets duly signed by the Members and
Chairman of the Board.*

(2) Interview award sheets duly signed by the Members and Chairman of the respective Selection Committees.

(3) All the twenty-three pages identified by the Assistant Registrar of the Commission.

3) It seems that during pendency of this petition, the respondent provided certain documents to the petitioner in compliance to the directions of the Writ Court and the contempt petition was disposed of in terms of order dated 14.12.2021. However, the petitioner made an application bearing CM No.473/2022 seeking recall of the aforesaid order. In the said application, it was been contended that the documents that were provided to him by the respondent did not contain full information in terms of the directions of the Writ Court, inasmuch as the final award sheets duly signed by the Members and the Chairman of the Board and the interview award sheets duly signed by the Members and the Chairman of the respective Selection Committees were not furnished to the petitioner.

4) Vide order dated 15.02.2022 passed by this Court, the contempt proceedings were revived. After revival of the contempt proceedings, the respondent filed his status report in which it has been submitted that in terms of office order No.15-SSB of 2023 dated 30.01.2023, a Sub Committee comprising four officers was constituted to make all efforts to ensure that the record including the Final Award Sheets is made available. The aforesaid Committee submitted its report dated 22.02.2023, in which it has been reported that the Final Award Sheets prepared by the Board for

the post of Food Inspector Divisional cadre, Kashmir, in H&ME Department is not traceable from the records. It has been further reported that only laminated list of eligible candidates who had applied for the said posts advertised vide No.03 of 1997 dated 29.04.1997, 01 of 2001 dated 11.01.2001 and 01 of 2002 dated 26.04.2002 are available, meaning thereby that the stand of the respondent is that Final Award Sheets signed by the Members and Chairman of the Selection Committee as also the Interview Award Sheets signed by the Members and the Chairman of the respective Selection Committees are not traceable from the records of the respondent Board.

5) Heard and considered.

6) There is no dispute to the fact that the respondent has not provided the copies of the Final Award Sheets duly signed by the Members and Chairman of the Board as also the copies of the Interview award Sheets signed by the Members and Chairman of the respective Selection Committees to the petitioner. What has been provided to the petitioner is only the copies of the aforesaid documents verified by the Secretary of the Board. The stand of the Board is that the record is very old pertaining to the years 1997-2002 and the same is not traceable. Learned counsel for the respondent has also produced the relevant record and the same does not contain the original award sheets, the copies whereof were directed to be furnished to the petitioner.

7) The question that arises for determination is as to whether the respondent is liable to be proceeded for having committed contempt of the Court. It is a settled law that a person can be held guilty of having committed contempt of the Court only if he has intentionally and deliberately violated the order of the Court. In the instant case, the respondent could not provide the relevant documents to the petitioner because the same are not available in the record of the Board and in spite of his best efforts, the respondent could not trace out the same and, as such, he could not comply with the direction of the Writ Court. In these circumstances, it cannot be stated that the respondent has committed a wilful disobedience of the order of the Writ Court. The said order has not been complied with due to the reasons beyond the control of the respondent. Therefore, it cannot be stated that the respondent has committed contempt of the Court, as such, he cannot be proceeded against. The contempt proceedings against the respondent are, therefore, closed and the petition stands disposed of.

8) The record be returned to the learned counsel for the respondent.

(SANJAY DHAR)
JUDGE

Srinagar
22.12.2023
"Bhat Altaf, PS"

Whether the order is reportable: Yes/No