

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

**WP(C) No. 2187/2023
CM No. 5069/2023**

Rafia Begum

.....Appellant(s)/Petitioner(s)

Through: Mr. N. A. Gattoo, Advocate

vs

UT of J&K and ors.

..... Respondent(s)

Through: Mr. Ravinder Gupta, AAG

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

(ORAL)

31.12.2024

1. In the instant petition filed under Article 226 of the Constitution, the petitioner herein seeks quashing of Communication No. 105/Reader/ACR/D/23 dated 11.08.2023 issued by respondent 3 besides a consequential direction upon respondent 3 to issue residence certificate in favour of the petitioner in order to enable her to participate in the process of selection qua the post of Sahayikas (Anganwadi Helper) for Panchayat Malwas of Tehsil Bhagwah, District Doda.
2. The facts giving rise to the filing of the instant petition reveal that the respondents herein issued an advertisement notice bearing No. 01 of 2023 dated 10.05.2023 for filling up various posts including the post of Sahayikas (Anganwadi Helper) for Panchayat Malwas of Tehsil Bhagwah, District Doda in response whereof, the petitioner states to have applied before respondent 6 against a proper receipt bearing No. 7 dated 23.05.2023, in that, the petitioner was possessed of eligibility

prescribed therein in the advertisement notice for the post and in connection thereof, the petitioner applied to the Block Development Officer for issuance of the residence certificate who however did not issue the same and instead instructed the petitioner to approach the office of Deputy Commissioner, Doda. A communication is also stated to have been addressed to the concerned Tehsildar by the Deputy Commissioner in this regard for furnishing of a detailed report vide communication dated 27.07.2023, consequent to which, both the Tehsildar Doda and Block Development Officer submitted reports on 04.08.2023 and 10.08.2023 respectively stating therein in the said reports that the petitioner is a resident of Ward No. 2 of Village Malwas, Tehsil Bhagwah, District Doda, yet upon receiving the said report, respondent 3 herein issued communication dated 11.08.2023 stating therein that as per the New Human Resource Policy issued vide Government Order No. 222-JK(SWD) of 2022 dated 30.11.2022 read with Para III (C), the report of the Tehsildar, Doda and Block Development Officer Bhagwah, the name of the petitioner is not enrolled in the voter list of Panchayat, as such, the proof of residence of the petitioner cannot be authenticated and the certificate thereto cannot be issued in favour of the petitioner.

3. The petitioner has maintained the instant petition on multiple grounds.
4. **Objections** to the petition have been filed by the respondents wherein it is being admitted that the petitioner approached the office of Deputy Commissioner for issuance of the residence certificate and upon receipt of the report from Tehsildar, Doda and Block Development

Officer, Bhagwah, the said certificate was not issued in favour of the petitioner as the petitioner was not enrolled in the electoral roll of Halqa Panchayat Malwas and since in terms of the Government Order No. 103-JK(SWD) of 2023 dated 28.04.2023, a candidate seeking selection/appointment against the post of Anganwadi Helper has to furnish the proof of residence in the shape of figuring of the name of the candidate in the voter list along with his/her parents and since the petitioner did not figure in the said voter list, the residence certificate in favour of the petitioner was not issued.

Heard learned counsels for the parties and perused the record.

5. It is not in dispute that the respondents issued the advertisement notice dated 10.05.2023 for filling up the post of Anganwadi Helper for Panchayat Malwas and Ward No. 02 in Anganwadi Centre, Malwas. The advertisement notice supra being relevant herein provided the following criteria for selection of Anganwadi Helpers:-

Eligibility Criteria: As per Govt. Order No. 222 JK(SWD) of 2022 Dated 30.11.2022 for Recruitment of Sahayikas (Anganwadi Halpers)
Criteria for Selection of Sahayikas (Anganwadi Helpers):

- a. *The selection of Sahayakis (AWH) shall be restricted to the electoral ward where Anganwadi Centre is located.*
- b. *Women candidate in the age group of 18-37 years as of 01-01-2023 shall be considered for the post.*
- c. *Candidate should be a domicile of U.T. of J&K.*
- d. *Minimum qualification for Sahayakis (AWH) shall be Matriculation.*
- e. *In case no matriculate candidate is available in the ward, candidates with qualification not less than VII standard shall be considered.*
- f. *A Selection Committee Comprising of Child Development Project Officer (CDPO), Block Development Officer (BDO) and Zonal Education Officer (ZEO), concerned in each Project/Block shall have the mandate to make selections of the eligible candidates for the position of Sahayakis (AWH).*
- g. *The committee shall select the most Destitute needy married woman of the ward as helper from amongst those who fulfil the*

qualification criteria. In case no married candidate is available, Unmarried candidate may be considered.

6. It is not in dispute that Government Order dated 28.04.2023 relied upon by the respondents provide for the eligibility for selection and appointment against the post of Anganwadi Workers and Anganwadi Helpers and detail out the criteria of selection for Anganwadi Helpers as under:-

- a. The selection of Helper shall be restricted to the electoral ward where Anganwadi Centre is located.*
- b. Women candidates in the age group of 18-37 years shall be considered for the post.*
- c. The candidate should be a domicile of UT of J&K.*
- d. Minimum qualification for Anganwadi Helper shall be Matriculation.*
- e. In case no matriculate candidate is available in the Ward, candidates with qualification not less than VII standard shall be considered.*
- f. A Selection Committee comprising of Child Development Project Officer (CDPO), Block Development Officer (BDO) and Zonal Education Officer (ZEO) concerned in each Project/Block shall have the mandate to make selections of the eligible candidates for the position of AWH.*
- g. The Committee shall select the most destitute/needy married woman of the ward as helper from amongst those who fulfil the qualification criteria. In case no married candidate is available, unmarried candidate may be considered.*

As is manifest from above, the criteria for the selection for the post of Anganwadi Helper in the advertisement notice supra and in the Government order dated 28.04.2023 supra did not anywhere provide that the candidate seeking selection/appointment against the post of Anganwadi Helper shall be a resident of the electoral ward where the Anganwadi Centre is constituted, which condition though is prescribed for making selection/appointment against the post of Sanginis/Anganwadi Workers. The respondents seemingly have erred and mis-diverted while considering the application of the petitioner

herein for the selection/appointment against the post of Anganwadi Helpers and have wrongly declined to entertain the candidature of the petitioner for being not enrolled in the voter list of the Panchayat based on the report of the Block Development Officer and the Tehsildar, which reports otherwise also indisputably are of the year 2023 and the electoral record relied upon pertain to the year 2022 when in fact the petitioner as per the record available on the file is enrolled as a voter as per the electoral roll of 2023 reflecting the name of the petitioner there in for Malwas Panchyat at Serial No. 6 with her particulars being as under:-

Rafia Begum
Husband's Name: Ayaz Ahmed
House No. 17
Age: 24 Gender: Female

7. In view of the aforesaid position obtaining in the matter, the instant petition deserves to be allowed.
8. Accordingly, the instant petition is allowed, as a consequence whereof, Communication No. 105/Reader/ACR/D/23 dated 11.08.2023 is quashed and respondents 2 and 3 are directed to issue necessary residence certificate in favour of the petitioner for enabling her to apply against the post of Anganwadi Helper advertised vide Advertisement Notice bearing No. 01 of 2023 dated 10.05.2023, within a period of 15 days from the date of passing of this order, whereupon the petitioner shall be at liberty to apply for the post in question and in the event, the petitioner applies and is possessed of the eligibility thereof, the respondents shall accord consideration to her for

selection/appointment against the post of Anganwadi Helper in accordance with law.

9. **Disposed of.**

(JAVED IQBAL WANI)
JUDGE

Jammu
31.12.2024
Neha-II

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No

