

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

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CCP(S) no.611/2021
WP(C) no.880/2020
c/w WP(C) no.3754/2019

Reserved on: 23.08.2024

Pronounced on: 13.12.2024

CCP(S) no.611/2021:

Towseef Ahmad Shah and others Petitioner(s)

Through: Mr M. Y. Bhat, Sr. Advocate
with Mr Hamza, Advocate

Versus

Pandurang Pole and another Respondent(s)

Through: Ms Mahira Bhat, Advocate

WP(C) no.880/2020:

Towseef Ahmad Shah and others

Versus

U.T. of J&K and others

WP(C) no.3754/2019:

Salma Sayeed

Versus

U.T. of J&K and others

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL JUDGE

JUDGEMENT

1. In contempt petition, disobedience of Order dated 2nd June 2020 passed in WP(C) no.880/2020 is alleged by petitioners.

2. Response has been filed by respondents. Their stand is that posts of Assistant Cashier-cum-Clerk (General Category) had been advertised for J&K vide Advertisement Notice no.01 of 2017 dated 18th April 2017. Petitioners had applied. They had appeared in written test. Thereafter they appeared in interview as well, but they could not make grade, as such, they have not been selected. Respondents' further submission is that appointments and entire selection process is presently under probe before Anticorruption Bureau (ACB) and Crime Branch, Kashmir, under Probe Nos 34/2020 and Misc 123/2019 respectively. They would also contend that 20 candidates selected for Kashmir, have joined. One candidate, namely, Farhana, had, however, later on resigned after a gap of near about 05 months. The contention of petitioner that vacancies were available due to non-joining of any candidate is not correct. Respondents also aver that the claim of petitioners that they can be adjusted against available vacancies cannot be accepted nor law permits it. According to respondents, representations of petitioners have been replied properly and communicated to them through registered post; copy of which has been placed on record by respondents as Annexure A to the statement of facts/response. Further averment of respondents is that the candidates, who have been selected/appointed, whose selection/appointment has been challenged by petitioners herein, have also approached this Court with writ petitions, bearing WP(C) nos.2122/2021, 2651/2021, and 2768/2021, and apart from that, they have also filed contempt petition, CCP(S) no.38/2022. In those writ

petition, an order has been passed by this Court directing to consider those writ petitioners' permanent appointment and that those writ petitions are still pending.

3. From the above fact position, nothing survives in instant contempt petition inasmuch as respondents have complied with and implemented the Order dated 2nd June 2020 passed in WP(C) no.880/2020, and as a consequence of which proceedings are dropped and contempt petition is **closed**.

WP(C) no.880/2020

4. Petitioners pray to quash selection process to the post of Assistant Cashier/Clerk (Gen) in respondent-Bank (J&K Cooperative Bank) advertised vide Advertisement Notice no.01 of 2017 as also appointment order dated 26th April 2019 issued in Newspaper Kashmir Age on 29th April 2019. Petitioners also pray to direct respondents to settle their grievance by considering their appointment to the post of Assistant Cashier/Clerk in respondent-Bank in terms of merit proved by them in selection process being next in merit as per the final merit list after removing private respondents who have been adjusted illegally as backdoor entry. Respondents are also sought to be directed to fill up the rest of the vacancies or operate waiting list as the case may be.
5. Objections have been filed by respondent-Bank. They admit advertisement of posts in question. They also admit participation of petitioners in selection process. They, however, contend that petitioners could not make grade in selection and as such they were

not selected. According to respondent-Bank selection process is under probe, as noted above. One of the main and preliminary objection raised by respondents is that instant writ petition is not maintainable in view of the fact that J&K State Cooperative Bank is a Cooperative Society registered under J&K Cooperative Societies Act.

6. Subject-matter of instant writ petition is selection/appointment of Assistant Cashier-cum-Clerk (General Category) in J&K Cooperative Bank, which is a cooperative society registered under J&K Cooperative Societies Act. As such, writ petition is not maintainable. A Coordinate Bench of this Court vide judgement dated 13th April 2023 in *WP(C) no.2163/2019*, titled as *Ghulam Rasool Dar v. J&K State Cooperative Bank Ltd and another*, in which subject-matter was with respect to J&K State Cooperative Bank, which is a cooperative society registered under the Act, has set at rest that a writ petition is not maintainable against a cooperative society. The said judgement also covers instant writ petition inasmuch as it has a binding precedence. In such circumstances, there is no need to unnecessarily verbose this judgement by adumbrating and ingeminating the pleadings of both the parties.
7. Reliance placed by learned senior counsel for petitioners on various judgements do not render any aid and assistance to the case of petitioners owing to the fact that these relied-upon-judgements are distinguishable in facts and circumstances of the case in hand.
8. In view of above, instant writ petition is also not maintainable and is accordingly, **dismissed**. Interim direction, if any, shall stand vacated.

WP(C) no.3754/2019

9. Instant writ petition is also about the same subject matter with respect whereof aforementioned writ petition, WP(C) no.880/2020, has been dealt with and dismissed, which order also governs writ petition on hand.

As such, this writ petition is **dismissed**. Interim direction, if any, shall stand vacated.

(Vinod Chatterji Koul)
Judge

Srinagar

13.12.2024

Ajaz Ahmad, Secy.

