

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

Case:- WP(C) No. 1086/2025
CM No. 2577/2025

Ambir Khan, aged 25 years,
S/o Abdul Khaliq,
R/o Jamola, Tehsil Koteranka, District Rajouri

.....Petitioner(s)

Through: Mr. Pranav Kohli, Sr. Advocate with
Mr. Arun Dev Singh, Advocate.

Vs

1. Union Territory of Jammu & Kashmir
Through Commissioner/Secretary to Government,
Revenue Department,
Civil Secretariat, Jammu/Srinagar.
2. Deputy Commissioner, Rajouri.
3. Tehsildar, Koteranka, District Rajouri.
4. Mohd. Zulfraz S/o Sher Mohd,
R/o Sakhi Maidan, Tehsil Mendhar, District Poonch

.....Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG for R-1 to 3.
Mr. P. N. Bhat, Advocate for R-4/Caveator.

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
(13.05.2025)

01. The petitioner – Ambir Khan was holder of a Scheduled Tribe (ST) Certificate born out of file No. JA/17 and dispatch No. JA/76-77 dated 03.06.2019 issued by the Tehsildar-Koteranka, district Rajouri.

02. The petitioner, purportedly on the basis of his status, as being Scheduled Tribe (ST) belonging to Nomadic Gujjar family, had procured the said Certificate under the Jammu & Kashmir Reservation Act, 2004 and the Reservation Rules made

thereunder. The issuance of said Certificate in favour of the petitioner certifying him to be Scheduled Tribe (ST) was issued by the Tehsildar-Koteranka in terms of section 16 of the J&K Reservation Act, 2004.

03. An appeal under section 17 of the J&K Reservation Act, 2004 came to be preferred by the respondent No. 4 – Mohd. Zulfraz before the Deputy Commissioner, Rajouri on 13.05.2024 alleging that the petitioner was not belonging to “Scheduled Tribe” (ST) community but was of “Jatt” community and, therefore, his Scheduled Tribe (ST) category Certificate was misconceived.

04. In the appeal, the petitioner had appeared through his counsel and filed objections to vindicate his Scheduled Tribe (ST) Certificate.

05. The situation which precipitated the challenge to the petitioner’s Scheduled Tribe (ST) Certificate and his status as Scheduled Tribe (ST) was the selection of the petitioner in KCS Civil Judge (Junior Division) 2023 which was reckoned by the respondent No. 4 - Mohd. Zulfraz to be at the cost of his selection, he being a genuine Scheduled Tribe (ST) candidate as against the petitioner’s Scheduled Tribe (ST) status and Certificate being of spurious make and origin.

06. The appeal filed by the respondent No. 4 - Mohd. Zulfraz beyond prescribed period of limitation of 90 days with

effect from the date of order was accompanied with an application for condonation of delay.

07. After institution of his appeal on 13.05.2024, the respondent No. 4 - Mohd. Zulfraz had filed a writ petition WP(C) No. 1274 of 2024 in this Court on 30.05.2024 which came to be *disposed of in limine* in terms of an order dated 03.06.2024 passed by the Hon'ble Division Bench by directing the Deputy Commissioner, Rajouri to consider the matter pending before him preferably within a period of one month after an opportunity of hearing to all the concerned parties.

08. The appellate authority of the Deputy Commissioner, Rajouri being cognizant of the fact that the appeal was filed beyond the 90 days limitation period held that the condonation of delay is sought for was on genuine grounds and, therefore, condoned the delay and proceeded to adjudicate the appeal to come and hold that the Scheduled Tribe (ST) certificate held by the petitioner – Ambir Khan is in contravention of the provisions of Jammu & Kashmir Reservation Act, 2004 read with Jammu & Kashmir Reservation Rules, 2005 issued without adopting due procedure and without ascertaining the facts on ground and therefore, ordered its cancellation by simultaneously appointing the Additional Deputy Commissioner (ADC), Koteranka as an enquiry officer to enquire into the matter in depth and fix accountability of erring Revenue Officials involved in the

purported fraud of issuance of Scheduled Tribe (ST) Certificate in favour of the petitioner.

09. The *disposal* of the appeal came to take place by virtue of an order dated 11.03.2025 which made the petitioner to rush to this Court with the present petition filed on 29.04.2025.

10. In terms of an order dated 02.05.2025, this Court while issuing notice to the respondents which was waived on behalf of all the respondents by the respective counsel including counsel for the respondent No. 4 - Mohd. Zulfraz, sent for the record of the case related to the issuance of impugned Certificate in favour of the petitioner.

11. Today, upon hearing learned counsel for the petitioner – Ambir Khan as well as learned counsel for the respondent No. 4 - Mohd. Zulfraz, this Court has gathered an impression that the grievance of the petitioner – Ambir Khan is that he has not been given a fair opportunity of hearing in the matter by the appellate authority of the Deputy Commissioner, Rajouri and in this regard the grounds of challenge set out in para 10 (A, B & C) is pointer to the said concern of the petitioner.

12. Keeping in view of the fact that the petitioner – Ambir Khan and the respondent No. 4 - Mohd. Zulfraz have equal competing stakes in the matter and the remedy of appeal is a matter of last resort and action at their respective *disposal* in the

context of the matter, this Court is of the view that the impugned order dated 11.03.2025 passed by the appellate authority of the Deputy Commissioner, Rajouri can be set-aside so as to afford the petitioner an opportunity of hearing before the appellate authority of the Deputy Commissioner, Rajouri.

13. Mr. P. N. Bhat, learned counsel for the respondent No. 4 - Mohd. Zulfraz submits that he has no objection provided some timeline is settled for the appellate authority of the Deputy Commissioner, Rajouri to adjudicate the appeal on merits keeping in view the fact that time is of essence in the situation.

14. The plea of Mr. P. N. Bhat, learned counsel for the respondent No. 4 - Mohd. Zulfraz is also well meaning.

15. In view of the aforesaid, this Court **disposes** of this writ petition by setting-aside order dated 11.03.2025 passed by the Deputy Commissioner, Rajouri with a direction to the respondent No. 2 – Deputy Commissioner, Rajouri, as being an appellate authority, to restore and revive the appeal of the respondent No. 4 – Mohd. Zulfraz on file No. RD0050000069673 and adjudicate the appeal afresh.

16. The petitioner, being the sole respondent, in the said appeal shall be entitled to pursue all pleas and objections, be it legal or factual, preliminary or main, whatsoever taken at his disposal with respect to the appeal so preferred by the respondent

No. 4 before the respondent No. 2 – Deputy Commissioner, Rajouri as an appellate authority who is to deal with the case on merits and then to *dispose of* the appeal within a period of 90 days.

17. Parties i.e. the petitioner and the respondent No. 4 to appear before the Deputy Commissioner, Rajouri on **06.06.2025** wherefrom period of 90 days for the *disposal* of the appeal shall start running.

18. In the event of failure on the part of the appellate authority of the Deputy Commissioner, Rajouri in disposing of the appeal within a time granted, extension of time can be sought by a motion to the said effect to be laid before this Court by the Deputy Commissioner, Rajouri.

19. ***Disposed of*** alongwith connected application(s).

(RAHUL BHARTI)
JUDGE

JAMMU
13.05.2025

Bunty

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No