

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

Date of pronouncement: 30.12.2025.
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**WP(C) No. 3769/2025
CM No. 8581/2025**

Mehak Nehru & Anr.

.....Petitioners

Through: Mr. Abid Khan, Advocate

Vs

UT of J&K & Ors.

.....Respondent

Through: Ms. Nazia Fazal, Assisting Counsel to
Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(30.12.2025)

- 01.** Two petitioners herein are siblings being children of Smt. Rainka Devi and late Sh. Ashok Kumar Nehru.
- 02.** The petitioners' mother-Smt. Rainka Devi is holder of status as Scheduled Tribe (ST) belonging to "Paddari Tribe" being one of the Scheduled Tribes recognised under the Constitution (Jammu & Kashmir) Scheduled Tribes Order, 1989 amended from time to time. The averment to this effect is being referred in para 4 of the writ petition by the petitioners. The petitioners' mother-Smt. Rainka Devi is possessing Tribe Certificate bearing No. **JK-Rev-**

ST/2024/203599 dated **18.12.2024** issued by Tehsildar, Atholi (Paddar) as being the Issuing Authority.

- 03.** The petitioners claim that despite their mother Smt. Rainka Devi's marriage to their father Sh. Ashok Kumar Nehru, who was a Kashmiri Pandit, in the year 1986, their mother Smt. Rainka Devi had never left her parental home on account of being posted as Teacher in Tehsil Atholi (Padder) and thus, single handedly brought up the petitioners being distanced from their father.
- 04.** The petitioners are said to have been borne on **25.10.1988** and **13.03.1997** respectively.
- 05.** The petitioners' father-Sh. Ashok Kumar Nehru is said to have expired in a state of marital split from their mother on **06.07.2000**. By this reference, the petitioners claim that they are related in every sense of matter with their mother-Smt. Rainka Devi rather than drawing any lineage from their father-Sh. Ashok Kumar Nehru and on that count even reckon themselves to be belonging to "Paddari Tribe" drawn from their mother-Smt. Rainka Devi's said status.
- 06.** The petitioner No. 1-Mehak Nehru, by virtue of application reference No. **JK-REV-ST/2024/89535** dated **27.07.2024**, and the petitioner No. 2 Anuj Nehru, by virtue of application reference No. **JK-REV-ST/2024/89608** dated

27.07.2024, are said to have applied to the respondent No. 4-Tehsildar, Atholi (Paddar) as being the certificate issuing authority for issuance of Paddari Tribe Certificate as being a Scheduled Tribe category, in their respective favour.

07. The aforesaid two applications came to suffer rejection from the end of Tehsildar, Atholi (Paddar) which led the petitioners instead of availing any statutory remedy of appeal/revision as provided under Section 17 of the Jammu and Kashmir Reservation Act, 2004, to come forward with institution of a writ petition-**WP(C) No. 1175/2025** filed on **07.05.2025** in this Court thereby seeking quashment of the rejection orders of their aforesaid two applications for issuance of Scheduled Tribe (Paddari Tribe) Category Certificate, and further seeking writ of mandamus unto the Tehsildar, Atholi (Paddar) to issue the requisite certificate in favour of the two petitioners.

08. The respective reason for rejection of said two applications of the petitioners as given by Tehsildar, Atholi (Padder) was separately given.

09. Said application of the petitioner No. 1-Mehak Nehru was rejected on the following reason:

**“AS PER NT REPORT, SINCE SHAJRA OF
APPLICANT IS NOT ON PATERNAL DESCENDANCY.
HENCE REJECTED”**

10. The application of petitioner No. 2-Anuj Nehru was rejected on the basis of the following reason:

“AS PER NT REPORT, APPLICANT IS DIRECTED TO UPLOAD REVENUE RECORD FROM HER HUSBAND SIDE ALSO AND THEN APPLY. HENCE, THE APPLICATION IS REJECTED.”

11. Instead of pursuing the aforesaid writ petition to its logical end, the petitioners came to seek withdrawal of the writ petition-**WP(C) No. 1175/2025** with a liberty to approach the appellate authority in terms of Section 17 of the J&K Reservation Act, 2004 and, accordingly, the said writ petition came to be dismissed as withdrawn, with liberty as prayed for granted, in terms of order dated **14.05.2025**.
12. The petitioners came to prefer the statutory appeal on **28.05.2025** before the respondent No. 3-Deputy Commissioner, Kishtwar thereby assailing the rejection of their respective two applications by the Tehsildar, Atholi (Paddar).
13. After having preferred the aforesaid appeal before the Deputy Commissioner, Kishtwar on **28.05.2025** that too upon availing leave of this Court in terms of order dated **14.05.2025** in writ petition-**WP(C) No. 1175/2025**, the two petitioners came forward with the institution of a 2nd writ

petition-**WP(C) No. 1603/2025** on **20.06.2025** on a purported cause of action that an advertisement notification No. **05 of 2025** dated **09.06.2025** for the post of Naib Tehsildar in Revenue Department has been issued for which they need to apply on the basis of their Scheduled Tribe (Paddari Tribe) status but not being able to do so, therefore, sought the repeat relief as was claimed in writ petition-**WP(C) No. 1175/2025** without any iota of difference except one addition of writ of mandamus upon J&K Services Selection Board to consider the applications of the petitioners with respect to the referred selection process as Scheduled Tribe candidate without actual holding of requisite status.

14. 2nd writ petition came to be disposed of by the writ court in terms of order dated **24.06.2025** on being invited by the counsel for the petitioners that the petitioners would be satisfied with a direction to Deputy Commissioner, Kishtwar to consider the writ petition **WP(C) No. 1603/2025** as representation and decide the same as per law within the time frame.

15. This Court, in terms of said order dated **24.06.2025**, came to dispose of the writ petition-**WP(C) No. 1603/2025** with a direction to the Deputy Commissioner, Kishtwar to consider the writ petition as a representation with a decision to be **WP(C) No. 3769/2025**

taken within a period of ten days from the date of certified copy of order dated **24.06.2025** along with copy of the writ petition and annexures therewith being made available to Deputy Commissioner, Kishtwar by the petitioners.

16. Thus, on the one hand, the appeal of the petitioners filed on **28.05.2025** was pending before the Deputy Commissioner, Kishtwar and on the other hand, in terms of direction as given in an order dated **24.06.2025** of the writ court in writ petition-**WP(C) No. 1603/2025**, same also came to be referred as a representation for decision of the Deputy Commissioner, Kishtwar.

17. The respondent No. 3-Deputy Commissioner, Kishtwar by virtue of an order dated **11.07.2025** came to decide the appeal of the petitioners with a remand direction to Tehsildar, Atholi (Paddar) to take up the matter afresh with an open mind, drawn upon the legal precedents and policy guidelines ascited in the order itself, factors in the socio cultural upbringing and sustained residence of the appellants i.e., the petitioners in the tribal belt and then to come up with a well reasoned order after due consideration.

18. Tehsildar, Atholi (Paddar) was directed to reach out the case records and carry out a comprehensive re-assessment

by providing a fresh opportunity to the petitioners and then re-examine the matter in accordance with law and equity.

19. For the reasons best known to the petitioners, instead of reverting themselves back to the Tehsildar Atholi (Padder) by reference to already pending applications which otherwise had come to suffer rejection only to be restored back for adjudication in terms of order dated **11.07.2025** of the Deputy Commissioner, Kishtwar, they came forward with filing of fresh applications reference No. **JK-REV-ST/2025/109258, JK-REV-ST/2025/109250, JK-REV-ST/2025/109263 and JK-REV-ST/2025/109261** all dated **14.07.2025** to the Tehsildar, Atholi (Paddar) thereby asking for issuance of Scheduled Tribe (Paddari) Category Certificates.

20. After having done the aforesaid submission of fresh applications for seeking issuance of Scheduled Tribe (Paddari) Category Certificate before the respondent No. 4- Tehsildar Atholi (Paddar), the petitioners came forward with 3rd writ petition-**WP(C) No. 2794/2025** filed on **03.10.2025** thereby seeking a writ of mandamus unto the Tehsildar, Atholi (Padder) to issue Scheduled Tribe (Paddari) Category Certificates in furtherance of the aforesaid four applications so submitted by the petitioners and also seeking a writ of mandamus upon the Tehsildar, **WP(C) No. 3769/2025**

Atholi (Paddar) to pay compensation of **Rs. 2,00,000/- (Rupees Two Lacs)** for unlawful delay in not issuing the requisite certificates within a stipulated period of fifteen days.

- 21.** The institution of this very 3rd writ petition literally amounted to over-reaching and abandoning the indulgence of the Deputy Commissioner, Kishtwar in exercise of his appellate jurisdiction under Jammu & Kashmir Reservation Act, 2004 in terms of his decision dated **11.07.2025** in which remand direction had taken place to the Tehsildar, Atholi (Paddar) to re-consider the rejected applications of the petitioners submitted way back on **27.07.2024**.
- 22.** Learned counsel representing the two petitioners in **WP(C) No. 2794/2025** solicited disposal of the said writ petition by direction to Tehsildar, Atholi (Paddar) to decide the case relating to the applications of the petitioners in accordance with law within a period of fifteen days from the date certified copy of the order dated **08.10.2025** so passed by the writ court was to be made available to Tehsildar Atholi (Padder) by the petitioners.
- 23.** The petitioners soon followed with institution of a contempt petition-**CCP(S) No. 372/2025** on **12.11.2025** alleging willful default on the part of **Vijay Kumar Gupta-Tehsildar**

Atholi (Padder) in acting in compliance with the direction of the writ court in order dated **08.10.2025** passed in **WP(C) No. 2794/2025**.

- 24.** In terms of order dated **20.11.2025**, notice came to be directed to be issued to the contemnor/respondent- Vijay Kumar Gupta Tehsildar, Atholi (Paddar) passed in the said contempt petition. Said contempt petition is said to be pending disposal.
- 25.** After having indulged in the aforesaid jugglery of litigation, the petitioners are now coming forward with 4th writ petition-**WP(C) No. 3769/2025** in succession filed on **29.12.2025** seeking the writ of mandamus unto the Tehsildar, Atholi (Padder) in issuing the Scheduled Tribe (Paddari) Category Certificate pursuant to the four applications of the petitioners.
- 26.** In this writ petition as well as in the previous two writ petitions i.e., **WP(C) No. 2794/2025** and **WP(C) No. 1603/2025**, the petitioners have made no whisper of relief aimed with respect to Tehsildar, Atholi (Paddar) to carry out the remand proceedings to logical decision as directed in terms of order dated **11.07.2025** of the Deputy Commissioner, Kishtwar meaning thereby the petitioners seem to be attempting to avoid the scope of the directions

as given in the remand order dated **11.07.2025** by the Deputy Commissioner, Kishtwar as an appellate authority.

27. In the present writ petition, the petitioners are again repeating the relief of compensation for an amount of **Rs. 2,00,000/- (Rupees Two Lacs)** for the delay caused in issuance of Scheduled Tribe (Paddari Tribe) Category Certificate.

28. The present writ petition seems to be a sheer abuse of process of law being resorted to by the petitioners as they seem to be obsessed in hot haste in somehow getting the requisite certificates issued in their favour at the cost of by passing the procedure mandated upon the certificate issuing authority in considering the application on the basis of facts and circumstances of the case bearing in mind the peculiar nature of the case of the petitioners when by abandoning their father's caste and status, the petitioners are banking upon their mother's purported Scheduled Tribe (Paddari Tribe) Caste Certificate and in that regard, seeking the certificate as if a matter of right.

29. The Hon'ble Supreme Court of India in its judgment in the case of **"Rameshbhai Dabhai Naika Vs. State of Gujarat and ors", 2012(3)SCC 400** has referred the seriousness of the exercise to be accorded in dealing with the case of the

nature of which the present case is relatable and for that purpose this Court reproduces para 43 to highlight that the Tehsildar, Atholi (Padder) is not supposed to act mechanically and dish out issuance of Scheduled Tribe (Paddari) Category Certificate in favour of the petitioners on mere asking and that is the reason that the appellate authority of Deputy Commissioner, Kishtwar in his order dated **11.07.2025** framed the reference points for Tehsildar, Atholi (Paddar) to consider the rejected applications of the petitioners and then pass the orders. Para 43 of the aforesaid judgment is reproduced as under:

“43. In view of the analysis of the earlier decisions and the discussion made above, the legal position that seems to emerge is that in an inter-caste marriage or a marriage between a tribal and a non-tribal the determination of the caste of the offspring is essentially a question of fact to be decided on the basis of the facts adduced in each case. The determination of caste of a person born of an inter-caste marriage or a marriage between a tribal and a non-tribal cannot be determined in complete disregard of attending facts of the case. In an inter-caste marriage or a marriage between a tribal and a non-tribal there may be a presumption that the child has the caste of the father. This presumption may be stronger in the case where in the inter-caste marriage or a marriage between a tribal and a non-tribal the husband belongs to a forward caste. But by no means the presumption is conclusive or irrebuttable and it is open to the child of such

marriage to lead evidence to show that he/she was brought up by the mother who belonged to the scheduled caste/scheduled tribe. By virtue of being the son of a forward caste father he did not have any advantageous start in life but on the contrary suffered the deprivations, indignities, humiliations and handicaps like any other member of the community to which his/her mother belonged. Additionally, that he was always treated a member of the community to which her mother belonged not only by that community but by people outside the community as well.”

30. The fresh filing of applications by the petitioners and followed by successive filing of writ petitions by the petitioners seem to be an attempt to overshadow the order dated **11.07.2025** of the appellate authority of Deputy Commissioner, Kishtwar.
31. The writ petition, therefore, in its present form is held to be not maintainable being an abuse of process of law. The same is, accordingly, **dismissed**.
32. A copy of this order be forwarded to Ms. Nazia Fazal, Assisting Counsel appearing vice Mrs. Monika Kohli, learned Sr. AAG for the sake of notice at the end of Tehsildar, Atholi (Paddar).
33. Before parting with this judgment, this Court directs Tehsildar, Atholi (Paddar) to act in due compliance of the

directions of the appellate authority of Deputy Commissioner, Kishtwar in terms of order dated **11.07.2025** passed in appeal of the petitioners in respect of the rejection of their applications dated **27.07.2024**. For any delay on the part of Tehsildar, Atholi (Paddar) in carrying out needful exercise as directed in order dated **11.07.2025** of the Deputy Commissioner, Kishtwar, then the petitioners are at liberty to approach the Deputy Commissioner, Kishtwar for an appropriate direction to the Tehsildar, Atholi (Paddar) to do the needful in time bound manner.

JAMMU
30.12.2025
Naresh/Secy



(RAHUL BHARTI)
JUDGE

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