

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 581/2024 CM(1590/2024) CM(8420/2024)

UNION TERRITORY OF J AND K AND ORS ...Petitioner(s)/appellant(s)

Through: Mr. Hakim Aman Ali, Dy. AG

Vs.

SUHAIL AFZAL DAR AND OTHERS

...Respondent(s)

Through: Mr. A. H. Naik, Sr. Advocate with
Mr. Zia, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER

25-08-2025

1. Aggrieved by an order and judgment dated 30.10.2019 passed by the learned Single Judge in SWP No. 1888/2015 (*Maria Nazir and Ors. Vs. State of JK and Ors.*), the Union Territory of Jammu and Kashmir and others had preferred an intra-court appeal (**LPA No. 109/2020**) under Clause 12 of the letters Patent.

2. The Division Bench, upon consideration of the matter in issue, vide order and judgment dated 11.12.2020, allowed the appeal and the judgment dated 30.10.2019 was set aside:

"Accordingly, this appeal is accepted and the judgment of the learned Single Judge is set aside. We, however, direct the Chief Education Officer, Kulgam, to place the whole record before the Commissioner/Secretary to Government School Education Department, who will himself or through a committee constituted by him, go into the legality or otherwise of the selection process carried by the then Incharge Chief Education Officer, Kulgam, and if upon such verification, it is found that the selection process carried out by the then Chief Education Officer was fair and the candidates had been selected on the basis of their merit and in accordance with the

rules, shall proceed to finalize the select list and issue formal orders of appointment in favour of the selected candidates, notwithstanding the fact that in the selection committee which conducted the recruitment process, nominee of the Head of the Department was not associated. Let this exercise be completed by Commissioner/Secretary to Government School Education Department within a period of four weeks from the date copy of this order is served upon him."

3. And in compliance to the directions issued by the Division Bench, the respondent authorities re-examined the matter and vide order dated 28.07.2021, declared the entire selection process as void ab-initio. Further, it was observed that the matter was required to be referred to the investigating agency to probe the role of the officials involved in the mala-fide preparation of the select list.

4. Aggrieved of the said order, the respondents herein preferred OA No. 1824/2021 before the Central Administrative Tribunal, Srinagar. And vide impugned order dated 21.12.2023, the learned Tribunal set aside the order dated 28.07.2021 and left it open to the appellants to re-examine the matter and pass fresh orders in accordance with law as also the observations recorded by the Coordinate Bench while deciding LPA No. 109/2020.

5. Thus, this appeal.

6. The only argument advanced by the learned counsel for the parties is that *ex-facie* the impugned order dated 21.12.2023 is perverse and unsustainable, for the Tribunal has failed to assign any reason in support thereof. He submits that while adjudicating upon the rights and obligations of the parties, the Division Bench in its judgment dated 11.12.2020 had recorded crucial observations and in compliance thereto, the authorities reexamined the matter in right earnest and had passed a comprehensive order dated 28.07.2021.

7. With reference to the impugned order and judgment, he asserts that although the Tribunal noticed the arguments advanced by the learned counsel for the parties but apparently failed to deal with any of those. And without assigning any reasons, set aside the order dated 28.07.2021. Thus. the impugned order is non-speaking and bereft of any reason.

8. In response, learned Senior Counsel appearing for the respondents submits that in fact the order passed by the authorities on 28.07.2021, was/is also unsustainable, for it was passed *de-hors* the observations recorded by the Division Bench in its judgment dated 11.12.2020. However, he as always fairly concedes that the impugned order and judgment being bereft of any reasoning is indefensible. Therefore, it would be in the interest of both the parties that the same be set aside and the matter is remitted to the Tribunal for reconsideration.

9. In the wake of position sketched above, and in terms of the statement by the learned counsel for the parties, the impugned order dated 21.12.2023, is set aside, and the matter is remitted to the Tribunal for reconsideration and to pass orders afresh in accordance with law.

10. The appeal is accordingly disposed of in the above terms. This order shall not, however, constitute any expression of opinion on the case of either party. For the Tribunal shall proceed to decide the matter afresh and strictly in accordance with law.

11. However, considering that the parties have been litigating for the past several years, we consider it necessary to request the Tribunal to finally dispose of the matter as expeditiously as possible preferably within eight weeks from the receipt of certified copy of this order.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

SRINAGAR
25-08-2025
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