

**HIGH COURT OF JAMMU & KASHMIR AND LADAKHAT
SRINAGAR**

Reserved on: 27.03.2025
Pronounced on: 31.05.2025

LPA No.59/2025

MOHAMMAD UMAR ULLAH RATHER ...APPELLANT(S)

Through: Mr. R. A. Jan, Sr. Advocate, with
Mr. M. Aadil, Advocate.

Vs.

STATE OF J&K & OTHERS ...RESPONDENT(S)

Through: None.

CORAM:-

**HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

JUDGMENT

Per Oswal 'J'

1. Pursuant to Advertisement Notice dated 02.05.2013, whereby applications were invited for engagement as Rehbar-e-Taleem (Science) in newly upgraded Primary School, Shistergam, from the educated youth of Village Shistergam on habitation basis having educational qualification of 10+2 and above with a stipulation that only those candidates having Mathematics and Science background should apply, the appellant submitted his application. A tentative select list came to be drawn and published in daily newspaper "Greater Kashmir" in its issue dated 03.06.2013 and objections were invited from the aggrieved persons, if any, with regard to aforementioned tentative select list.

2. The respondents 8 and 9 instead of submitting their objections to the tentative select list, filed a writ petition bearing SWP No.1068/2013,

which came to be disposed of by the learned Writ Court vide judgment dated 29.05.2015. In compliance to the judgment dated 29.05.2015, the respondent No.3 issued order dated 29.07.2015, which was impugned by the appellant through the medium of a writ petition bearing SWP No.2143/2015 on the ground that the same has been issued by the respondent No.3 in utter disregard of the order dated 29.05.2015, as the real controversy involved in the writ petition bearing SWP No.1068/2013 was in respect of the actual residence of the respondents 8 and 9 (petitioners 1&2 in writ petition bearing SWP No.1068/2013) and not that of the private respondents in that writ petition. It was urged by the appellant that respondent No.3 has not taken into consideration the record in respect of the clinching evidence that the petitioners in SWP No.1068/2013 are the residents of Village Sheikhpora and not Village Shistergam.

3. The aforesaid writ petition came to be objected by the official respondents. The official respondents besides narrating the factual aspects of the case took a plea that as a result of litigation, the selection of ReTs for upgraded Middle school, Shistergam, remained on hold for quite sometime and in the meanwhile, pursuant to State Administrative Council decision read with Government Order No.919-Edu of 2018 dated 16.11.2018, the Government imposed a blanket ban on engagement of ReTs, therefore, the petition has been rendered infructuous.

4. Respondents 8 and 9, also objected to the writ petition by pleading that they were possessed of the eligibility prescribed in the

Advertisement Notice and that pursuant to the judgment dated 29.05.2015, passed in the writ petition filed by the respondents 8 and 9, the respondent-Deputy Commissioner issued the order, which was impugned by the appellant in SWP No.2143/2015, but the petitioner has no right to challenge the order, as the same has been passed in compliance to the directions issued in SWP No. 1068/2013 and LPA No. 97/2015.

5. The learned Writ Court, after hearing the parties, arrived at the conclusion that the ReT scheme has been abolished by the Government vide Government Order No.919-Edu of 2018 dated 16.11.2018, as such, no fresh appointment can be made under the said Scheme. The learned Writ Court while relying upon the judgment passed by a coordinate Bench of this Court in a batch of writ petitions with lead case titled **“Rukhsana Jabeen vs. State of J&K and Ors.”** (SWP No.3004/2018) decided on 04.02.2023, came to the conclusion that the panel in the case on hand was yet to be approved, as only tentative panel was prepared by the concerned authorities, therefore, the case of the appellant would not attract condition No.(iii) of para-No.31 of the judgment (supra).

6. Mr. R. A. Jan, learned senior counsel appearing for the appellant, has strenuously argued that the learned Writ Court was not correct in its approach while dismissing the writ petition as an artificial distinction has been created, in respect of the candidates where select panels were approved vis a vis the candidates where select panels were not approved.

7. This is an admitted fact that vide order dated 29.05.2015, passed in SWP No.1068/2013 filed by respondents 8 and 9 herein, wherein the appellant figured as respondent No.8, the learned Writ Court directed the Deputy Commissioner, Anantnag, to hold an enquiry to ascertain and determine whether or not the respondents 8 and 9 herein were the permanent residents of Village Shistergam, where two posts of ReTs were to be filled in upgraded Middle School, Shistergam. The respondent No.3 in compliance to the direction issued by the learned writ court, as mentioned above, vide order dated 29.07.2015, arrived at the conclusion that the petitioners, namely, Syed Naziya Jan and Syed Anjum Gazala (respondents 8 and 9 herein), are residents of Village Shistergam. It is an established fact that only a tentative panel was prepared, and no panel was ever approved by the official respondents, for engagement as Rehbar-e-Taleem.

8. In this context, it would be appropriate to take note of the judgment of the Hon'ble Supreme Court of India passed in case titled as **“UT of Jammu and Kashmir & Ors vs. Jatinder Singh &anr.”** (Special Leave Petition (C) No.17409 of 2021 decided on October 14, 2024), wherein following observations have been made:

“.....In our view, however, the case of the State Government has not been fully considered by the Division Bench of the High Court inasmuch that the appointments of the Primary School Teacher have now to be made under the Right to Education Act and the Scheme and the Regulations framed therein by the Nodal Agency i.e. National Council for Teacher Education [NCTE]. The qualifications which have been fixed by NCTE are Diploma in Education and the candidate should also have passed the Teachers' Eligibility Test, both of which the present respondent no.1 does not possess. It is an admitted fact that though, the respondent no.1 was seeking an appointment

under the relaxed scheme of Rehbar-e-Taleem, which was applicable at that point of time, however, it is not the case that the respondent was already taking classes in school, and sought only regularization under the said scheme.

It is also an admitted fact that the respondent has no teaching experience and is now 42 years of age and, therefore, it will not be practical to appoint the petitioner as teacher on a selection process which was held 14 years earlier.

The focus under the Right to Education Act, which is presently also applicable in the Union Territory of Jammu and Kashmir, is on quality education to the children and not on giving jobs to the unemployed. Under these circumstances, we find that the impugned order of the High Court cannot be sustained. The appeal is hereby allowed and the order dated 11.03.2019 is set aside.”

(emphasis added)

9. As the scheme has been closed by the Government and no right is vested in the appellant for being engaged as ReT, therefore this Court does not find any illegality or impropriety in the order dated 03.01.2025, whereby the writ petition preferred by the appellant was dismissed as having been rendered infructuous in view of closure of ReT scheme vide Government Order No.919-Edu of 2018 dated 16th of November, 2018.

10. In view of the above, we have no reason to disagree with the opinion formed by the learned writ court, while dismissing the writ petition filed by the appellant. This appeal is found to be misconceived and is, accordingly, **dismissed**.

(MOHD. YOUSUF WANI) (RAJNESH OSWAL)
JUDGE JUDGE

Srinagar
31.05.2025
“Bhat Altaf-Secy”

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