

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

CM No. 4065/2025 in
RP No. 53/2025

Reserved on: 15.12.2025
Pronounced on: 24.12.2025
Uploaded on: 24.12.2025
Whether the operative part or full
judgment is pronounced: FULL

Nazir Ahmad Payer aged 40 years
S/o Abdul Rashid Payer,
R/o Gundisana, Tehsil & District Kupwara ...Petitioner(s)/Appellant(s)

Through: Mr. M. M. Dar, Adv. with Ms Saika, Adv.

Vs.

- 1. Union Territory of JK th. Commr/Secretary to Govt, Education Department, Civil Secretariat, Jammu/Srinagar.**
- 2. Director, School Education Department, Kashmir Srinagar.**
- 3. Chief Education Officer, Kupwara.**
- 4. Zonal Education Officer, Kupwara.**
- 5. Rabia Ramzan**

D/o Mohammad Ramzan Sofi, ...Respondent(s)
R/o Sahipora Laiwadi, Gundisana, Kupwara.

Through: Mr. Alla-ud-din Ganai, AAG for 1 to 4
Mr. Mian Tufail, Adv. for 5

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

J U D G M E N T

Per Sanjeev Kumar, J

1. A petition filed by the petitioner namely Nazir Ahmad Payer seeking review of the order and judgment dated 21st November 2017 passed by this court in LPA No. 102/2017 titled Nazir Ahmad Payer vs. State of J&K and Ors. is delayed by 2741 days. Hence the instant application for condonation of delay.

2. Before we advert to the “*sufficient cause*”, projected by the petitioner for filing highly belated review petition, we deem it appropriate to briefly sketch the factual background leading to the filing of this belated review petition.

3. During the target year 2010-2011, the State Project Director SSA vide his No. Edu/SPD/SSA/27829-55 dated 4th August 2010 sanctioned a Primary School for habitation Laiwadi of Revenue Village Gundisana. Two RET posts sanctioned for the aforesaid school were notified for engagement vide advertisement notification dated 23rd February 2011. The said advertisement notification was published in the local daily newspaper on 26th February 2011 and was given wide publicity. Seven candidates responded to the advertisement notification by submitting their applications before the cut-off date. One of the seven candidates namely Ahtisham-ul-Haq later withdrew his candidature. The official respondents found the habitation Laiwadi fulfilling the requirements of Government Order No. 288-Edu of 2009 dated 8th of April 2009 and accordingly prepared a tentative panel of the eligible candidates belonging to the habitation. The petitioner herein and few other candidates raised objection to the tentative panel prepared by respondents on habitation basis before the Deputy Commissioner, Kupwara. The Deputy Commissioner Kupwara referred the matter to CEO Kupwara for further necessary action.

4. Acting upon the direction of the Deputy Commissioner, Kupwara, CEO Kupwara constituted an Inquiry Committee to look into the objections raised by the petitioner and few others. The Inquiry Committee was also tasked to look into a complaint lodged by one Zahoor-ul-Islam. The Inquiry Committee after conducting the spot verification concluded its inquiry and

submitted two reports in this regard to the Chief Education Officer concerned. The report submitted on 4th February 2012 dealt with the objection of Zahoor-ul-Islam and dislodged his objections on the ground that he had not applied for the post on or before the cut-off date. Another report was submitted by the Inquiry Committee on 18th February 2012 affirming that the habitation Laiwadi qualified to be a village in terms of Government Order 288-Edu of 2009. The Committee thus affirmed the action of respondents in preparing the tentative select panel on habitation basis. The report was accepted by the Chief Education Officer, Kupwara, who directed the concerned ZEO to proceed further and issue the engagement letter in favour of candidates belonging to habitation Laiwadi and to the exclusion of the petitioner and others who were residents of other habitations of the same revenue village.

5. The tentative selection list was thus published by the respondents on 21st March 2012 inviting objection from the general public. The petitioner herein instead of objecting to the tentative select list approached a Single Bench of this court by way of SWP No. 660/2012 which was disposed of by order dated 5th April 2012 directing the Chief Education Officer Kupwara to accord due consideration to the objections/representations of the petitioner before finalizing the selection list.

6. It is the stand projected by the official respondents that in compliance with judgment dated 5th April 2012 passed in SWP No. 660/2012, the representation of the petitioner was considered and it was found that his representation stood already considered and that the issue raised by him stood already dealt with by the Chief Education Officer in terms of the inquiry report dated 18th February 2012 submitted by the Inquiry Committee

constituted under the direction of the Deputy Commissioner, Kupwara. The official respondents also claimed to have passed a consideration order in this regard on 16th April 2012. It seems that after rejecting the representation of the petitioner, the select list was finalized and an engagement letter in favour of respondent No. 5 herein was issued by the ZEO concerned on 20th October 2012.

7. Feeling aggrieved, the petitioner filed SWP No. 727/2013 to throw challenge to selection list dated 21st March 2012 and the engagement order dated 20th October 2012. The petitioner, as is apparent from the material on record, did not throw a specific challenge to the order of consideration dated 16th April 2012. However, when the official respondents as well as respondent No. 5 filed their objections on 14th May 2013 and 25th May 2013 respectively, it was specifically stated by the respondents that in compliance with the directions dated 5th April 2012 passed in SWP No. 660/2012, the official respondents had considered the grievance of the petitioner and passed a consideration order on 16th April 2012. The official respondents did not place on record the copy of the said order, though a copy of the said order was placed on record by the respondent No. 5. This prompted the petitioner to file an application bearing MP No. 3534/2013 on 9th November 2013 for seeking amendment of the petition so as to throw challenge to the consideration order of rejection passed by the official respondents on his representation. The said application was dismissed by the learned Single Judge vide order dated 19th of May 2017 primarily on the ground that the consideration order dated 16th April 2012 which was sought to be challenged by way of an amendment was in existence when SWP No.

727/2013 was filed and, therefore, the petitioner shall be deemed to have abandoned challenge to the said order.

8. The matter was taken by the petitioner to the Division Bench by way of an appeal registered as LPA No. 102/2017. The Division Bench also did not find favour with the argument of learned counsel for the petitioner and dismissed the appeal.

9. Not satisfied with the judgment of the Division Bench dated 21st November 2017, the petitioner preferred a Special Leave Petition before the Hon'ble Supreme Court which was dismissed as withdrawn by the Supreme Court vide order dated 07.09.2018. As is claimed by the petitioner, he thereafter took up the matter with the official respondents to find out the veracity of the consideration order dated 16th April 2012 and applied for requisite record under Right to Information Act. He would submit that after obtaining the requisite information and being satisfied that the order dated 16th April 2012 was a non-existent order having not been dispatched by the office of ZEO concerned, decided to file the review petition.

10. The review petition has been filed in the background of factual narrations which we have given hereinabove. The delay has been sought to be condoned primarily on the ground that the judgment passed by the learned Single Judge dated 19th May 2017 and upheld by the Division Bench vide order dated 21st November 2017 are all obtained by respondents by concealment and misrepresentation of facts. It was argued by Mr. M. M. Dar, that this court has erroneously accepted the stand of the official respondents that they had passed a consideration order on 16th April 2012, i.e., prior to the petitioner filing SWP No. 727/2013. He would argue that the order dated 16th April 2012 was manufactured later and it is because of this

reason it does not bear any dispatch number. His further grievance is that the consideration order dated 16th April 2012, even if it is assumed to be in existence, was never served upon the petitioner. The petitioner came to know about the said consideration order only when the objections were filed by the official as well as the private respondent. He immediately took requisite steps and filed an application for amending the petition so as to throw challenge to the so-called consideration order dated 16th April 2012 and this application was filed when the writ petition was pending. It is argued by Mr. Dar that both the Writ Court as well as the Appellate Court ignored the fact that existence of order dated 16th April 2012 and its service upon the petitioner was completely doubtful. He would further submit that later on when he approached the official respondents by way of an application under RTI Act, it was revealed to him that no such order was ever dispatched from the office of ZEO, Kupwara nor the same was ever conveyed/served on the petitioner.

11. Having heard the learned counsel for the parties and perused the material on record, we are of the considered opinion that petitioner has failed to demonstrate a sufficient cause which prevented him from filing the review petition within a period of limitation.

12. It is true that as against the judgment passed by this court on 21st November 2017 in LPA No. 102/2017, the petitioner preferred an SLP before the Hon'ble Supreme Court. The SLP was dismissed as withdrawn by the Hon'ble Supreme Court on 7th of September 2018. It took the petitioner almost seven years to approach this Court to file review petition seeking recall of the judgment dated 21st November 2017. The petitioner has tried to explain this huge delay of about seven years by submitting that he had been

pursuing the matter with the official respondents and was collecting the requisite information. We are not impressed by the reasoning given by the petitioner. If he could challenge the order of consideration dated 16th April 2012 by filing an application for amendment of the petition in the year 2013 itself without collecting the so-called material, there was no impediment in his way to file the review petition. He could have prayed for requisitioning of the original record from the official respondents. Even if we were to concede that it took the petitioner some time to collect the requisite documents, yet the period of seven years is too long to be explained on the basis of such excuse.

13. For the foregoing reasons, we find no justification in filing such highly belated review petition. That apart, we also do not find any error apparent on face of record in the judgment under review which would persuade us to exercise our review jurisdiction to recall the order dated 21st November 2017 passed in LPA No. 102/2017. There is yet another reason why we do not wish to condone the delay and entertain the review petition. The writ petition i.e., SWP No. 727/2013 is still pending adjudication before the writ court in which the petitioner has not only challenged the selection list, but has also thrown challenge to the engagement of the respondent No. 5. The core issue for determination in the said writ petition is whether the selection in question was required to be made on the revenue village basis or on habitation basis in terms of Government Order No. 288-Edu of 2009 dated 8th April 2009.

14. Having regard to the nature of controversy that falls for consideration of the writ court, the challenge to the consideration order would pale into insignificance. The consideration order dated 16th April 2012 whereby the

representation of the petitioner is stated to have been rejected has done nothing, except affirming the selection made by the official respondents by considering the candidates belonging to habitation Laiwadi only to the exclusion of the candidates belonging to other habitations of the revenue village Gundisana. The consideration order dated 16th April 2012 has only affirmed the applicability of Government Order No. 288 of 2009 to the habitation Laiwadi. It is the same issue which is subject matter of consideration in SWP No. 727/2013. Consideration order or no consideration order will not affect the determination of core controversy raised in the writ petition. We are, therefore, of the *prima facie* opinion that failure of the petitioner to challenge the consideration order dated 16th April 2012 does not take away his right to assail the selection and engagement of respondent No. 5 in SWP No. 727/2013 on all possible grounds including that the official respondents have erroneously conducted the selection process by considering the candidates belonging to habitation Laiwadi and ignoring the candidates belonging to other habitations of the village. The consideration order will also not come in the way of the petitioner to argue before the writ court that the Government Order No. 288-Edu of 2009 dated 8th April 2009 was not applicable to the selection in question.

15. We therefore find it a ridiculous that the petitioner has been litigating for years to throw challenge to the consideration order dated 16th April 2012 which says nothing except reiterating the stand of official respondents that the instant selection was rightly made by them on the habitation basis in terms of Government Order No. 288-Edu of 2009 dated 8th April 2009. We therefore find the entire litigation initiated by the petitioner meaningless and sheer wastage of time and money.

16. In view of the aforesaid, we find no merit in this application, the same is accordingly **dismissed**. As a consequence thereof, RP No. 53/2025 is also **dismissed**.

17. Record be returned to Mr. Alla-ud-din Ganai, learned AAG appearing for the official respondents.

(SANJAY PARIHAR) (SANJEEV KUMAR)
JUDGE JUDGE

SRINAGAR:
24.12.2025
Altaf



Whether approved for reporting? Yes