

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

LPA 128/2023 c/w
CPSW 254/2014

U T OF J AND K THROUGH COMMISSIONER SECRETARY
AGRICULTURE DEPARTMENT AND ORS

...Petitioner(s)/Appellant(s)

Through: Mr. Faheem Shah, GA

Vs.

AB RASHID WANI

...Respondent(s)

Through: Mr. M. Ashraf Wani, Advocate

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

ORDER
01.12.2025

LPA 128/2023

1. Impugned in this intra-court appeal are orders dated 31.05.2023, 07.06.2023 and 14.06.2023, passed by the learned Single Judge in contempt petition No. 254/2014, with a view to ensure the compliance of the judgment dated 08.04.2013, passed in SWP No. 1119/2012 titled "*Abdul Rashid Wani Vs. State of J&K & Ors*".

2. The impugned orders have been challenged by the appellants primarily on the ground that the consideration order which has been placed on record by the appellants along with the compliance report complies with the judgment dated 08.04.2013, and, therefore, no fresh order in terms of the judgment dated 08.04.2013 is required to be passed.

3. It is argued by Mr. Faheem Shah, learned GA appearing for the appellants that issuing direction after direction in the contempt matter despite the fact

that the judgment dated 08.04.2013 stands already complied with amount to issuing fresh directions, therefore, amenable to challenge under Clause 12 of the Letters Patent.

4. *Per contra*, Mr. Ashraf Wani, learned counsel appearing for the respondent would argue that the consideration order which has been placed on record by the appellants is only an eye wash and issued more in breach than in compliance with the judgment dated 08.04.2013.

5. Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion that the judgment dated 08.04.2013 has not been complied with in letter and spirit. The consideration order passed by the appellants does not address the issue in the light of directions contained in the judgment dated 08.04.2013 (*supra*).

6. The Writ Court while disposing of SWP No. 1119/2012 vide its order dated 08.04.2013 clearly directed the appellants to consider the case of the respondent herein for regularization in the light of communications dated 18.03.2003 and 06.10.2003 issued by the Chief Horticulture Officer, Pulwama to the Director Horticulture, a perusal whereof would *prima facie* reveal that the respondent was engaged by the appellants as daily rated worker w.e.f November 1993 and had completed seven years service so as to acquire a right of regularization under SRO 64 of 1994.

7. It is true that with a view to examine the matter in depth the appellants constitutes a Committee to look into the record as also the aforesaid two communications and render its findings as to whether the respondent was engaged as daily rated worker in November 1993 and had completed seven years continuous service so as to qualify for regularization under SRO 64 of 1994.

8. The Committee has gone through the available record, but has shown its inability to come to any definite findings in the absence of relevant record available with the appellants.

9. Needless to say that the two communications issued by the Chief Horticulture Officer, Pulwama to the Directorate Horticulture Kashmir have not been disputed by the appellants or by the Committee. These two communications are, therefore, the official record. There is presumption with regard to the genuineness of the official record. This presumption is, however, rebuttable by a cogent and clear record pointing to the contrary.

10. As per own showings of the Committee they could not find out any record to dispute these two communications or the facts stated therein. The absence of record would, therefore, fortify the presumption of the genuineness of these communications. Ordinarily, the appellants should have accepted the facts narrated in these two communications and taken the respondent having been appointed in November 1993 and completed seven years service in the year 2001 and accordingly passed an appropriate order. They have not done so and this they have done acting upon inconclusive and inchoate report prepared by the Committee.

11. It is, in these circumstances, the learned Single Judge has concluded that the consideration order passed by the appellants is more in breach than in compliance with the judgment dated 08.04.2013 (supra).

12. For the forgoing reasons, we are of the definite opinion that the impugned orders passed by the learned Single Judge do not amount to adding to or subtracting anything from the judgment dated 08.04.2013, and, therefore, are not amenable to appeal under Clause 12 of the Letters Patent.

13. Since the learned Single Judge has not passed any order punishing the

contemnors, and, therefore, no appeal would lie under the Contempt of Courts Act as well.

14. For all these reasons, this appeal is not maintainable and same is accordingly *dismissed*.

CPSW 254/2014

1. Registry is directed to list the contempt petition for consideration before the learned learned Single Judge having Roaster.

2. List on 29th December, 2025.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

01.12.2025

“S.Nuzhat”



