

IN HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 1702/2025

Mohammad Yousuf War

...Petitioner(s)

Through: Mr. Sheikh Manzoor, Adv.

Vs.

UT of JK and Ors.

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE.

ORDER
22.07.2025

1. In this petition, the petitioner is aggrieved of and has challenged the communication dated 27th February, 2025, issued by the respondent no. 4-Additional Deputy Commissioner, Kupwara [ADC] addressed to the respondent no. 5 -Chief Education Officer, Kupwara, [CEO], on the ground that the respondent no. 4 is not competent under law to direct the Chief Education Officer, Kupwara, to conduct an enquiry with regard to the qualification as well as date of birth of the petitioner, as the petitioner is not working under aegis of the concerned Deputy Commissioner.
2. Learned counsel for the petitioner has drawn the attention of this Court to the Communication dated 16th October, 2024, issued by the Additional Deputy Commissioner, Kupwara, to the Headmaster, Govt. Boys High School, Gulgam Kupwara, a perusal whereof, reveals that the concerned Headmaster has been requested to authenticate the entries in school leaving certificate, whereby the date of birth of the petitioner has been

shown as 1st April, 1970 and was a student of 9th class under Roll No. 35. Pursuant to the aforesaid communication, the Headmaster concerned has submitted a detailed report 19th October, 2024, wherein it has been stated that as per the statement of the then teacher, Mr. Abdul Ahad Bhat , the petitioner was working as Tr. Incharge Admission and Mr. D.N.Gunjoo was the Headmaster at that time at BHS, Gulgam and both of them have since expired.

3. While submitting the report, it has been brought to the notice of respondent no. 4, (ADC) that the school building along with all records including admission records was gutted in fire on 26th September, 1990, and the FIR in that regard was also registered at Police Station, Kupwara. It has also been brought to the notice of ADC, Kupwara, that the aforesaid fire incident has destroyed entire record and school property. Pursuant to the record submitted by the concerned Headmaster, the ADC, Kupwara, has directed the CEO, Kupwara to enquire the matter thoroughly and authenticate the factual report so that further course of action is initiated in the matter on the basis of the complaint filed against the alleged fraud by the petitioner, who is an employee of Sheep Husbandry Department.
4. Since the report of Headmaster, Government Boys School, Gulgam Kupwara, dated 10th July, 2024 followed by another communication dated 19th October, 2024, and the letter of Head Master Boys High School Awoora dated 27th October, 2023 are contradictory to each other and, thus, the enquiry has been ordered by the ADC, Kupwara.
5. The petitioner through the medium of instant petition has called in question the communication dated 27th February, 2025, issued by the ADC, Kupwara, primarily, on the ground that the ADC, Kupwara, has no

jurisdiction to issue such communication ordering enquiry to authenticate alleged fraud, as such, the same is legally not sustainable. It has also been urged that the Additional Deputy Commissioner is discharging his duties as Public Information Officer and once, the information has been received by him, the application seeking information of the informant stands disposed of, then he has no role and authority under law to direct any Authority for conducting such enquiry with regard to date of birth of the petitioner, as he is not the competent Authority under law to do so. The petitioner, as per the pleadings of the instant petition, is, as on date, working under the aegis of respondent no. 2.

6. Learned counsel for the petitioner further submits that petitioner was duly appointed as Daily-Rated Worker in the year 1991 and was regularized as Class-IV employee under SRO 64 of 1994 after completing seven years of service. It is further submitted that since the Headmaster, Govt. Boys High School, Gulgam, Kupwara, has already clarified that the fire incident has destroyed all the records and FIR bearing No. 118/1990 in that regard was registered with Police Station, Kupwara, on 26th September, 1990, therefore, nothing was found against the petitioner and the matter stood clinched. However, the contradictory report submitted by the Headmaster, Govt. Boys School, Gulgam Kupwara on 19th October, 2024, which led to the initiation of enquiry is without any basis as the same is in clear contradiction to the earlier report dated 10th July, 2024. Thus, the initiation of enquiry is loathed with malafide consideration and without any legal justification and the same has been done at the behest of private respondent no. 7, who is bent upon to harass the petitioner due to personal enmity. Lastly, learned counsel

for the petitioner submits that the impugned communication seeks to revive a settled issue without due process and without affording an opportunity of being heard to the petitioner, is in blatant violation of principles of natural justice and on this ground also, the same is liable to be set aside.

7. Heard learned counsel for the petitioner at length and perused the material on record.
8. Since there are contradictory reports of the concerned Headmasters with regard to the date of birth of the petitioner and also the allegation against the petitioner that he has committed a fraud by flouting the employment rules on the basis of a forged documents, therefore, the matter is required to be enquired by the competent Authority. On the other hand, learned counsel for the petitioner has raised an objection with regard to the enquiry being initiated by Additional Deputy Commissioner, Kupwara, who, as per him, is not competent under law to conduct such enquiry. Learned counsel further submits that he is not averse to the conducting of enquiry with regard to the date of birth of the petitioner, but the same has to be conducted only by a competent Authority, under whose aegis, the petitioner is performing his duties. He further submits that the petitioner has been working under the aegis of respondent no. 2, i.e., Director, Sheep Husbandry Department, Lal Mandi, Srinagar, therefore, he is competent under law to conduct such enquiry viz-a-viz the date of birth.
9. Without going into the merits of the case or the jurisdiction/competence of Additional Deputy Commissioner, Kupwara, to conduct an enquiry, this Court, in the peculiar facts and circumstances of the case, directs respondent no. 2 i.e., Director, Sheep Husbandry Department, Lal Mandi, Srinagar, to conduct an enquiry against the petitioner with respect to the

allegation of fraud on the basis of forged documents leveled against him under law and that too, after providing an opportunity of being heard to the petitioner so as to enable him to put forth his stand. Let the said enquiry be initiated and concluded strictly in accordance with law within a period of two months from the date a copy of this Order is served upon him. The competent Authority shall take a final decision on the basis of outcome of the enquiry after following due process of law within a period of two weeks thereafter.

10. **Disposed of** along with connected CM(s) in the manner indicated above.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
22.07.2025
"Shamim Dar"