

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

LPA 252/2023 in[SWP 2069/2015]

KAWSER JAN

...Petitioner/Appellant(s)

Through: Mr. Bakht Parvaiz, Advocate.

Vs.

UNION TERRITORY OF JANDK AND ORS.

...Respondent(s)

Through: Mr. Mohd Younis Hafiz, Assisting Counsel vice
Mr. Ab. Rashid Malik, Sr. AAG.
Mr. Syed Riyaz Khawar, Advocate with
Mr. Altamash Rashid, Advocate.

CORAM:

HON'BLE MR JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR JUSTICE SANJAY PARIHAR, JUDGE

ORDER

08.07.2025

1. This intra-Court appeal by the appellant is directed against an order and judgment dated 2nd August, 2023 passed by learned Single Judge of this Court (the Writ Court) in SWP No. 2069/2015 titled “**Kawser Jan versus Social Welfare Department (State Government)**”, whereby the writ Court has dismissed the writ petition filed by the appellant challenging the selection and engagement of respondent No. 7 as Anganwardi Worker in Anganwardi Centre, Darpura Nasserpora.
2. Briefly stated facts relating to the filing of this petition are that vide Advertisement Notification bearing No. CDPO/ICDS/KELLER/2014/393-400 dated: 19.09.204, the CDPO, ICDS Keller invited applications for filling up the positions of Anganwardi Workers in various Anganwardi Centers including Anganwardi Centre Darpura/Nasserpora falling in revenue village Nasserpora.

3. The petitioner as well as the respondent No. 7 along with other candidates responded to the advertisement notification. The selection committee drew up a select panel in which the appellant was placed at S.no. 1. Consequent upon the completion of selection process and on the basis of the merit obtained by the appellant, the CDPO ICDS Keller issued an order of engagement in its favour vide its order No. 03 CDPO of 2015, dated 6th April, 2015. The respondent No. 7 objected to the engagement and challenged the selection as well as the engagement of the appellant before the Deputy Commissioner Shopian. The Deputy Commissioner, Shopian entertained the appeal and constituted a committee to enquire into the disputed questions of facts. That matter was considered by the Deputy Commissioner in the light of the report of the enquiry committee and the Deputy Commissioner came to the conclusion that the appellant-Kowser Jan was not eligible for the post for she was not the resident of the hamlet where the Anganwardi Centre was established. A clear finding was returned by the Deputy Commissioner that at the time of filing of application, the appellant was unmarried and resident of different place known as Bonpora. The order of the Deputy Commissioner dated 8th September, 2015 was called in question by the appellant before the writ Court in SWP No. 2069/2015. The writ Court did not find any infirmity or illegality in the order passed by the Deputy Commissioner and consequently vide its order and judgment dated 9th August, 2023 dismissed the writ petition. It is this order and judgment of the writ Court which is called in question by the appellant before us.

4. Having heard the learned counsel for the parties and perused the record, we are of the considered opinion that the judgment passed by the writ Court is legally and factually correct and, therefore, does not call for any interference by us.

5. Indisputably, as is evident from the application form submitted by the appellant, she was unmarried at the time the advertisement notification in question was issued and she submitted her application form when she was the resident of another village, that is, Bonpora and wrongly showed Nasserpora/Herpora Ward No. 2 as her place of residence. With a view to staking claim for the post in question it seems that a 'Nikah Nama' was manipulated and it was claimed that the appellant had married to a person in Dar Mohalla/Darpora Nasserpora and had been staying there at the time of submission of the application form.

6. The Deputy Commissioner has gone to this aspect of the matter at length and has considered the report of the committee dated 24th June, 2015 for facilitating the adjudication of the appeal. In the report, it has been reported that village Nasserpora is divided into two regions locally called Herpora and Bonpora, however, there is no Mohalla by the name of Dar Mohalla or Darpora existing in the said village. The report further takes note of the fact that there is a cluster of residential houses located in Herpora locality of said Village which is inhabited by the persons from 'Dar' caste. The committee has also found that the parental home of the appellant is located in Bonpora of the said village and it is only after she married Manzoor Ahmad Dar, she took her residence in the locality known as Dar Mohalla. This, however, happened after she had submitted her application form. The Deputy Commissioner considered the report of the committee and placing strong reliance upon the application form submitted by the appellant herself indicating her status as unmarried, came to the conclusion, that the 'Nikah Nama' was subsequently manufactured/generated and, therefore, was not a document to be relied upon to arrive at a conclusion that the appellant, at the time of submission of application form, was a resident of Dar Mohalla.

It is in this background that the Deputy Commissioner accepted the appeal and quashed the selection and engagement of the appellant as Anganwardi Worker for Mohalla Darpora. The writ Court has rightly approved the view taken by the Deputy Commissioner on facts and has come to right conclusion that the appellant, at the time of submission of application form, was not the resident of Mohalla Darpora and, therefore, was not eligible to be considered.

7. We see no reason to differ with the view taken by the writ Court. The issue as to whether the appellant is a resident of Darpora or Bonpora, at the time of advertisement notification/submission of application form, is a pure question of fact and that the two forums vis, the Deputy Commissioner and the Writ Court have concurrently decided the aforesaid issue. No contrary material is placed before us to differ with the concurrent findings of the act returned by the two forums below.

8. In this writ petition we find no merit, same is accordingly *dismissed*.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR
08.07.2025
“Shahid Manzoor”

Whether the Order is speaking?	Yes/No
Whether the order is reportable ?	Yes/No