

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

SWP No. 27/2019

*Reserved on: 04.08.2026
Pronounced on: 11.08.2026
Uploaded on: 11.08.2026
Whether the operative part or full
judgment is pronounced: **Full***

**Suneel Sharma, age 32 years S/o Sh. Nehru Lal
Sharma, R/o Village Shale, Tehsil & District Doda**

.....Petitioner(s)

Through: Mr. Achal Sharma, Advocate

- 1. State of J&K through Commissioner/Secretary
Government, Education Department, Civil Secretariat,
Jammu.**
- 2. Director School Education, Jammu.**
- 3. Chief Education Officer, Doda.**
- 4. Zonal Education Officer, Ghat, Tehsil & District Doda.**
- 5. Deputy Commissioner, Doda.**
- 6. Tahir Nazir S/o Nazir Ahmed Tantray, R/o Village
Arnora, Clock Ghat, Tehsil & District Doda.**

..... Respondent(s)

Through: Mr. Anishwar Chatterji Koul, GA for R-1 to 4

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

JUDGMENT

PRAYER

1. The petitioner through the medium of instant petition has sought the following reliefs:

- a) For issuance of an appropriate writ, order or direction in the nature of Writ of Certiorari whereby quashing the Inquiry report bearing No. 595-96/ARA dated 06.12.2018 issued by respondent No.5 and Panel issued by the respondent No.2 vide Notification No. DSEJ/RET/7685 dated 02.07.2014 so far as it relates to the issuance of panel, for making selection against one out of three posts of Rehbar-e-Taleem under Science Stream in UPS (G), Shale Tehsil and district Doda, whereby the private respondent has been proposed for selection against the above said post, as the same being

patently illegal, arbitrary and against the norms and rules governing the field.

- b) For issuance of an appropriate writ, order or direction in the nature of Writ of Mandamus commanding upon the respondents to recommend and engage the petitioner as Rehbar-e-Taleem in UPS(G), Shale, Tehsil and District Doda, by strictly adhering to the Government Order No. 288-Edu of 2009 dated 08.04.2009 read with Corrigendum Order dated 09.04.2009.

BRIEF FACTS

2. The brief facts of the case are that the petitioner participated in the selection process for engagement as Rehbar-e-Taleem (ReT) Teacher in UPS (G), Shaie, Tehsil and District Doda. The grievance of the petitioner is that, instead of making the selection on habitation basis as contemplated under Government Order No. 288-Edu of 2009 dated 08.04.2009, the respondents conducted the selection on the basis of the revenue village. Consequently, respondent No. 2, vide Notification No. DSEJ/RET/7685 dated 02.07.2014, empanelled the private respondent against one of the three ReT posts under the Science Stream. Aggrieved thereof, the petitioner filed SWP No. 2923/2014, which came to be disposed of by this Court vide order dated 21.05.2015, directing respondent No. 5 to examine the applicability of Government Order No. 288-Edu of 2009 to the selection in question and to take an appropriate decision. Pursuant thereto, respondent No. 5 issued Inquiry Report No. 595-96/ARA dated 06.12.2018, which, according to the petitioner, fails to address or determine the applicability of the aforesaid Government Order. The present petition has, therefore, been filed challenging the said Inquiry Report.

3. The petitioner states that he possesses the qualifications of B.Sc. (Medical), B.Ed. and M.A. (English) and had applied for one of the three ReT posts under the Science Stream in UPS (G), Shaie, pursuant to Advertisement Notification No. DIP/J-8811 dated 12.02.2014. According to the petitioner, he was the only eligible candidate belonging to Habitation Shaie, where the school is situated, and was entitled to consideration in terms of Government Order No. 288-Edu of 2009, as the habitation fulfilled the twin conditions prescribed therein, namely, a population of more than 300 persons and a distance of more than one kilometre from the nearest habitation.
4. It is the further case of the petitioner that while preparing the tentative select panel, respondent No. 4 treated the revenue village, instead of the habitation, as the unit of selection. The petitioner submitted objections specifically pointing out that Habitation Shaie satisfied the conditions stipulated under Government Order No. 288-Edu of 2009 and furnished supporting material in that regard. However, the objections were not considered and the respondents finalized the selection by issuing Notification dated 02.07.2014, whereby the private respondent, who was not a resident of Habitation Shaie, came to be empanelled. According to the petitioner, the selection is contrary to the mandate of Government Order No. 288-Edu of 2009.
5. Aggrieved by the aforesaid selection, the petitioner earlier approached this Court by filing SWP No. 2923/2014. The writ petition was disposed of on 21.05.2015 with a direction to respondent No. 5 to examine the

applicability of Government Order No. 288-Edu of 2009 to the selection process and pass an appropriate order. In compliance thereof, respondent No. 5 issued Inquiry Report No. 595-96/ARA dated 06.12.2018 and rejected the claim of the petitioner. The petitioner, however, contends that the Inquiry Report does not record any finding regarding the applicability of the said Government Order and is, therefore, liable to be set aside. The petitioner being aggrieved of the impugned Inquiry Report and the panel issued vide Notification dated 02.07.2014 has challenged the same in the instant petition on the following amongst other grounds:-

- a) *That both the Inquiry report and Notification impugned are bad both on law and facts, as such, the same are liable to be quashed and set aside.*
- b) *That the impugned Notification is further bad on the ground that the respondent No.4 with some extraneous consideration has benefited the private respondent who is not eligible for the above said post in terms of Govt. Order No.288-Edu of 2009 as the private respondent is a resident of Village Ghat which is at a distance of more than 05 Kms. from UPS Shaie but the respondents without strictly adhering to said Govt. Order have recommended the name of the private respondent for the above said post of RET under Science stream, as such, the impugned notification is liable to be quashed and set aside.*
- c) *That the impugned notification is further bad on the ground that the same has been issued against the mandate of the RET scheme as the panel issued vide the same should have been prepared at habitation level in terms of Govt. Order No.288-Edu of 2009 as the habitation where the said school is located fulfilled the twin conditions mentioned in the above said order and that being so, the tentative panel prepared on revenue village basis is bad as the consideration always starts from smaller unit, as such, in the instant case habitation being the smaller unit, the panel should have been prepared accordingly and the petitioner being the only local candidate should have been recommended for the above said post, as such, notification impugned is required to be quashed and set aside.*

- d) *That the impugned Inquiry Report is further bad on ground that from bare perusal of the Inquiry report it transpires that the respondent No.5 has nowhere mentioned about the applicability of Govt. Order No. 288-Edu of 2009 which was mandatory in terms of directions of this Hon'ble Court, as such, the impugned Inquiry report is liable to be quashed and set aside.*
- e) *That the impugned Inquiry report is further bad on the ground that the report No.44-46/OQ dated 16.10.2015 which shows only 286 souls in habitation Shaie was prepared solely erroneously on the basis of survey conducted by concerned Patwar halqa on spot, as such, the respondent No.5 directed to furnish another report for proper and fair ascertainment of number of souls and accordingly a second report was prepared in the basis of Chula-Chowkidari which again showed 296 souls, but since the second report dated 28.10.2015 has not mentioned the accurate number of family members of seven households, the petitioner filed a representation before respondent No.5 thereby seeking addition of left over souls in the said seven households and in-consequence of which 3d report dated 12.5.2016 was prepared which has provided clarification regarding the left over members in detail and submitted that 09 souls were not added while counting the number of souls at the time of preparing the second report. It is pertinent to mention here that with the addition of 09 souls, the total number of souls residing in village Shaie exceeds 300, but the respondent No.5 without considering the documents placed on record by the petitioner, failed to appreciate the fact that since the population of habitation Shaie is more than 300 souls and also distance between habitation Shaie to Bhelli is approximately 1.7 Kms. and distance between habitation Shaie and habitation Bari is approximately 02 Kms. which is clear from the communication dated 18.9.2017 issued by Tehsildar Doda to respondent No.5 and hence the Govt. Order No.288-Edu of 2009 was applicable, but the respondent No.5 without considering the same, has issued the impugned Inquiry report which is in any case cannot bear the judicial scrutiny of this Hon'ble Court, as such, the same is liable to be quashed and set aside.*
- f) *That although the respondent No.5 is having no role in making selection of RET teacher but he was assigned job by this Hon'ble Court, but he had utterly failed to comply-with the direction in letter and spirit because he was not authorized to delegate his powers to any other authority, as such, the Inquiry report is without any justification and merits dismissal.*

REPLY ON BEHALF OF THE OFFICIAL RESPONDENTS.

6. Objections have been filed by Mr. Anishwar Chatterji Koul, learned Government Advocate, on behalf of the official respondents, wherein it is submitted that no legal, fundamental or statutory right of the petitioner has been infringed and, therefore, the writ petition is not maintainable. It is further contended that the petitioner lacks *locus standi* and that the selection was rightly conducted on the basis of the revenue village, as there was no occasion to treat the habitation as the unit of selection. It is also submitted that the private respondent was empanelled on the recommendations of the Village Level Committee and on the basis of a valid Permanent Resident Certificate (PRC), and, therefore, the selection does not suffer from any violation of the Rehbar-e-Taleem Scheme or the SSA norms.
7. Learned Government Advocate further submits that, pursuant to the directions issued by this Court in SWP No. 2923/2014, respondent No. 5 conducted a detailed enquiry and, vide Inquiry Report dated 06.12.2018, rejected the petitioner's claim. It is contended that the present petition raises substantially the same issues and is, therefore, devoid of merit. It is further submitted that the controversy involves disputed questions of fact, which cannot appropriately be adjudicated in the exercise of writ jurisdiction under Article 226 of the Constitution of India read with Section 103 of the Constitution of Jammu and Kashmir. It is also alleged that the petitioner has suppressed material facts and has not approached the Court with clean hands, rendering the petition liable to dismissal on this ground as well.

8. It is further submitted that two adjoining habitations cannot be clubbed together for determining the applicability of Government Order No. 288-Edu of 2009 dated 08.04.2009, as such an interpretation would amount to enlarging the eligibility criteria contemplated under the Rehbar-e-Taleem Scheme. It is also contended that, by Government Order No. 919-Edu of 2018 dated 16.11.2018, the Rehbar-e-Taleem Scheme stood formally closed and all pending recruitment processes, including advertisement notices and panels where engagement orders had not been issued, were deemed to have been cancelled ab initio. Since the petitioner has not challenged the aforesaid Government Order, it is urged that the present writ petition has become infructuous and is not maintainable.
9. Record further reveals that this Court vide order dated 11.01.2019 while entertaining the instant matter, by way of interim direction, has been pleased to passing the following direction:

“Meanwhile, subject to objections from other side and till next date of hearing before the Bench, respondents shall not issue the appointent order of respondent No.6-Tahir Nair for the post of Rehbar-e-Taleem, if he has not been appointed till today.”

LEGAL ANALYSIS

10. Heard learned counsel for the petitioner and perused the record. Also heard Mr. Anishwar Chatterji Koul, learned GA.
11. During pendency of the aforesaid writ petition, the Hon’ble Apex Court in case titled “*Union Territory of Jammu and Kashmir & Ors vs Saba Wani*” has passed a judgment in which the Hon’ble Apex Court while

dealing with the petition preferred by the Union Territory of J&K & Ors.,
has been pleased to issue the following directions”:

- a) *The Closure Order of ReT Scheme dated 16.11.2018 for cancellation/withdrawal shall not retrospectively impair the right of the candidates found placed in the select panel. In view of the discussion made hereinabove, the candidates placed in respective select panels shall be issued engagement/appointment orders as per their position in the select panel having regard to the available vacancies.*
- b) *The State shall issue the formal engagement orders to the candidates of select panel within a period of eight weeks in terms of the direction (a) above.*
- c) *Candidates appointed as per directions (a) and (b) from the select panel under the ReT Scheme are directed to acquire minimum qualification prescribed under NCTE Regulations and Notifications, including to qualify the TET, within 3 years and 3 attempts from date of their engagement/appointment. In this regard, the State is directed to organize the TET annually. After successfully acquiring the minimum qualification and passing TET within prescribed time limit, the services of such appointees shall be, accordingly, regularized on completion of two years of service thereafter.*
- d) *The direction (c) above shall be applicable to the other similarly situated candidates who have already been appointed from the select panels under the ReT Scheme after 23.08.2010 i.e., the date of NCTE notification prescribing minimum qualifications and prior to the issuance of Closure Order, and do not possess minimum qualification including TET as per the notification of NCTE. However, those appointees shall acquire prescribed qualification within the time as specified in direction (c).*
- e) *It is obligatory upon this Court to direct that once the candidates/appointees under the ReT Scheme have acquired the prescribed qualifications and qualified the TET as indicated above, the seniority of all such candidates/appointees shall be redrawn and determined by the competent authority of the State, maintaining their respective positions in the select panels uninfluenced by the date of appointment, joining or regularization. The inter se seniority shall also be determined accordingly.*
- f) *It is further directed that if the candidates/appointees including those already appointed and regularized who do not acquire/possess the requisite qualifications in terms of the NCTE notifications and fail to qualify the TET within the period prescribed hereinabove, the State is at liberty to dispense with their services as the mandate of Article 21-A of the Constitution of India cannot be left at altar even while rendering complete justice invoking Article 142 of the Constitution of India. It is further clarified that those candidates/appointees would not have any claim with to seniority or regularization as directed respect hereinabove.*
- g) *The directions issued hereinabove are in rem and shall apply mutatis mutandis to the candidates already appointed pursuant to 74*

advertisements that are subject matter of present proceedings, though they are not party to the present appeals. In view thereof, this judgment shall be widely publicized, and all the candidates/appointees shall be duly informed of these directions so that they can take recourse for acquiring the minimum qualification as per NCTE Regulations and Notifications, if they have not already acquired the same.

- h) The directions contained in clauses (a) to (g) hereinabove shall apply to all the candidates who are litigating in any Court and such cases have been filed prior to the date of this judgment. It is further clarified that candidates who have not already filed cases in any Court shall neither acquire any fresh cause of action by virtue of these directions nor be entitled to seek any further directions from any Court in that regard.*
- i) At the cost of repetition, it is clarified that this judgment shall not be construed as reviving the ReT Scheme for any purpose whatsoever, nor shall it be interpreted so as to create or confer any right upon candidates who were not part of a prepared select panel or who failed to approach the Court timely. Moreover, these directions are being issued in the peculiar facts and circumstances of this case invoking the power under Article 142 of the Constitution of India and it shall not be treated as precedent in any manner whatsoever.*
- j) In view of the observations made in para 24 above, we believe that the State Government shall apply their mind to the facts and circumstances of the case and the situation prevalent in the State and to take an appropriate decision with respect to the revision of the honorarium of such teachers as they deem fit.*

12. Before advertng to the binding effect of the aforesaid judgment on the claim of the petitioner, it is pertinent to notice that the petitioner seeks not only quashing of the Inquiry Report dated 06.12.2018, but also quashing of the select panel to the extent it pertains to the private respondent and a consequential direction for his own recommendation and engagement against the post of Rehbar-e-Taleem in UPS (G), Shaie. The grievance of the petitioner with regard to the Inquiry Report is essentially that the applicability of Government Order No. 288-Edu of 2009 was not examined in the manner directed by this Court in SWP No. 2923/2014, particularly with regard to the habitation being the unit of selection. The official respondents, on the other hand, have maintained that the selection was

made on the basis of the revenue village and that the private respondent was recommended by the Village Level Committee on the basis of a valid PRC. Thus, acceptance of the petitioner's prayer would necessarily require reopening the selection process, disturbing the select panel already prepared and undertaking a fresh exercise for determining the petitioner's entitlement to selection and engagement under the erstwhile ReT Scheme.

13. Even assuming, for the sake of argument, that the Inquiry Report did not adequately deal with the applicability of Government Order No. 288-Edu of 2009, the same by itself cannot result in the grant of the consequential relief sought by the petitioner at this stage. Any such relief would necessarily entail reconsideration of the selection process and creation of a fresh right of selection in favour of the petitioner, who admittedly does not figure in the prepared select panel. The interim direction passed by this Court on 11.01.2019, whereby the respondents were restrained from issuing the appointment order in favour of the private respondent, if not already issued, also cannot be construed as conferring any substantive right of selection or engagement upon the petitioner. The benefit of such interim protection cannot be extended to reopen the erstwhile ReT Scheme after its closure, particularly when the Hon'ble Supreme Court has subsequently issued specific directions governing the candidates who were already part of the prepared select panels. Any direction at this stage for reconsideration or engagement of the petitioner would, therefore, have the effect of reviving the closed ReT Scheme and would run contrary to the express directions and clarification issued by the Hon'ble Supreme Court.

14. Admittedly, the petitioner does not figure in the select panel. Therefore, in view of the directions issued by the Hon'ble Supreme Court in "*Union Territory of Jammu and Kashmir & Ors. v. Saba Wani*", referred to hereinabove, the petitioner cannot claim any right to selection or engagement under the erstwhile ReT Scheme. The directions issued by the Hon'ble Supreme Court are applicable to the candidates whose names figure in the prepared select panels and do not create or confer any right upon a candidate who was not part of such select panel. Consequently, no relief can be granted to the petitioner at this stage.
15. In addition, the Hon'ble Apex Court has also made it clear that the candidates so appointed as per the directions (a) and (b) from the select panel under the RET scheme are directed to acquire minimum qualification prescribed under NCTE regulations and notifications including the qualified TET within three years and three attempts from the date of their engagements/appointments. As such, the directions (a) to (j) referred hereinabove, shall be applicable strictly in favour of those candidates whose names figured in the select panel and admittedly in the instant case, the petitioner nowhere figures in the select panel, as such, no relief can be granted to the petitioner at this stage.

CONCLUSION

16. Therefore, in the light of the judgment passed by the Hon'ble Apex Court, the instant petition has been rendered infructuous and *accordingly, same is dismissed* as the relief prayed for by the petitioner at this stage cannot be acceded thereto as the same will tantamount to reviving the RET Scheme

which if be done will be direct conflict with the directions issued by the Hon'ble Apex Court.

17. Thus, viewed from any angle, the writ petition, in the light of the aforesaid development and the law laid down by the Hon'ble Apex Court, is *dismissed*. However, dismissal of the instant writ petition shall not come in the way of the petitioner to agitate his cause before appropriate forum, if so advised.

18. Interim direction, if any, shall stand vacated.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
11.08.2026
Vijay

