

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

SWP No. 2018/2013

IA No. 2954/2013

Reserved on: 03.08.2026

Pronounced on: 11.08.2026

Uploaded on: 11.08.2026

*Whether the operative part or full
judgment is pronounced: **Full***

**Shazad Ahmed age, 22 years S/o Sh Isam Din,
R/o Guglinar, Village Naili, Manjakote, Rajouri**

.... Petitioner

Through:- Mr. Anuj Dewan Raina, Advocate.

V/s

- 1. State of Jammu and Kashmir through Chief
Secretary, Govt. of J&K, Civil Secretariat,
Srinagar.**
- 2. Commissioner-Cum-Secretary Edu. Deptt.
Govt. of J&K, Civil Secretariat, Srinagar.**
- 3. Director School Education, Jammu.**
- 4. Chief Education Officer, District Rajouri.**
- 5. Zonal Education Officer, Zone Majakote,
Rajouri.**
- 6. Head Master, Govt. Middle School, Gugli-Nar,
Naili, Majakote, Rajaouri**

.....Respondent(s)

Through:- Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Advocate
Mr. Rahul Pant, Sr. Advocate with
Mr. Anirudh Sharma, Advocate

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) Certiorari seeking quashment of the tentative panel of RET Teacher (Science) stream in PS to UPS Guglinar, notified vide Notification bearing No. DESJ/RET/5088 dated 17.08.2013, whereby the private respondent has

been shown in the list despite being not resident of the habitation Guglinar.

- b) Mandamus commanding respondent authorities to strictly adhere to the norms and procedure laid down in the RET scheme by considering the candidature firstly on habitation basis and thereafter on village level basis.
- c) Mandamus commanding the respondent authorities to consider the petitioner for the purpose of engagement as RET Teacher (Science) stream in PS to UPS Guglinar.

2. The petitioner herein has invoked the extraordinary writ jurisdiction of this Court seeking quashment of impugned tentative panel and merit list of candidates prepared for selection to the post of RET Teacher in PS to UPS Gugli-Nar, Zone Manjakote. Pursuant thereto, the following proposed issues which may arise for kind consideration and adjudication of the matter are as under:

- a) Whether the impugned tentative panel and the merit list of the candidates in science subject, is held to be legally justified when the selection has been made on the village basis and not on habitation basis, contrary to the advertisement notification.
- b) Whether the respondents are justified in considering the candidates out of the said habitation, when the post of RET teacher had been advertised for the habitation Gugli-Nar.
- c) Whether the respondents are justified in ignoring the merit suitability and residence of the petitioner in the said habitation, who ought to have been considered for the post of RET in science stream in school PS to UPS Gugli-Nar, zone Manjakote.
- d) Whether the impugned tentative panel and merit list is sustainable in the eyes of law when whole of the selection has been made contrary to the basic aim and object of the RET scheme.
- e) Whether the petitioner is liable to be considered against the said RET post in science stream in School PS to UPS Gugli-Nar, zone Manjakote.

BRIEF FACTS

3. The brief facts leading to the filing of the instant petition are that, vide Advertisement Notification No. DIP/J-2298/2012 dated 27.06.2012, respondent No. 4 invited applications for the engagement of RET

Teachers in the newly upgraded Middle Schools under the SSA Scheme for the year 2010–2011 (Science and Mathematics Stream), including two posts of RET Teachers one for the Science Stream and another for the Mathematics Stream for PS to UPS Gugli-Nar, Zone Manjakote.

4. The specific case of the petitioner is that, as per the aforesaid Advertisement Notification, it has been specifically provided that the selection shall be made on the basis of merit at the habitation level in the first instance, and only if no eligible candidate is available from the concerned habitation, the selection shall be made at the village level.
5. The specific case of the petitioner is that, being a resident of Habitation Gugli-Nar, he submitted his application to the respondent authorities pursuant to the aforesaid Advertisement Notification. The petitioner, having possessed the requisite qualifications, expected his selection, as he claims to be the most meritorious eligible candidate of the said habitation. It is further averred that the post of RET Teacher for PS to UPS Gugli-Nar, Zone Manjakote, was advertised for Habitation Gugli-Nar and that the petitioner, being a resident thereof, was the only meritorious eligible candidate from the said habitation.
6. It is further submitted that, by placing reliance upon Government Order No. 288-Edu of 2009 dated 08.04.2009, the respondents prepared the merit list wherein respondent No. 7 was placed at Serial No. 1, another candidate at Serial No. 2, and the petitioner at Serial No. 3.
7. Feeling aggrieved of the aforesaid panel, the petitioner filed objections on 11.07.2012. The petitioner with a view to substantiate his claim that respondent No.7 was not a resident of Habitation Gugli-Nar and that the selection was required to be made at the habitation level, also stood verified by the concerned Sarpanch, Head Master of the concerned school and from the resolution passed by the VEC Members, therefore, the petitioner challenged the impugned tentative panel dated 17.08.2013 on the ground that the panel and merit list prepared by the respondent

authorities dehoes the Advertisement Notification as well as Government Order No. 1639-Edu of 2003 dated 12.11.2003.

8. It is the specific case of the petitioner that as per Advertisement Notification and the Government order mentioned supra, the panel was required to be prepared at the habitation level and not at the village level. It is contended that the petitioner being meritorious eligible candidate of Habitation Gugli-Nar, has been arbitrarily and illegally ousted from the zone of consideration by the respondent authorities. It is further contended that respondent No.7, whose name has been shown in the impugned tentative panel is neither the actual and nor the permanent resident of the said habitation.
9. The record further reveals that on 20.09.2013 this Court while entertaining the instant matter, by way of ad-interim direction, has been pleased to pass the following direction:

“Meanwhile, as ad interim, subject to objections and till next date before the Bench, impugned panel shall stay. Respondents shall look into the grievance of the petitioner about which it has been stated that objections have already been submitted by him to the respondent No.3 and inform this Court alongwith reply.”

REPLY ON BEHALF OF RESPONDENT NO.7

10. A detailed reply has been filed by private respondent No. 7 controverting the averments made by the petitioner in the writ petition. Respondent No. 7 has specifically pleaded that the petitioner has not approached this Court with clean hands, inasmuch as Annexure-N appended with the writ petition, which is alleged to be a certificate issued by Mohd. Aslam Khan, Sarpanch P/H Nail (Manjakote) dated 11.09.2013, is a forged and fabricated document. It is further pleaded that certain insertions have been made in the said certificate by the petitioner, which fact has already been certified by the concerned Sarpanch vide his subsequent certificate dated 21.11.2013. It is further contended by respondent No. 7 that the aforesaid act on the part of the petitioner is criminal in nature and amounts to interference with the process of this Court. It is also

contended that the entire case projected by the petitioner is based on his assertion that he is a resident of Gugli-Nar Mohra of Village Naili, Zone Manjakote. However, since the school in question, where engagement of RET Teacher in the Science Stream is to be made, falls within Mohra Gugli-Nar, the petitioner claims an exclusive right to be considered for such engagement, while excluding other candidates belonging to Revenue Village Naili. Respondent No. 7 has further pleaded that the petitioner has intentionally and deliberately concealed material facts and has misrepresented his place of residence. According to respondent No. 7, the petitioner is, in fact, a resident of a different Mohra of Revenue Village Naili, namely Kumhar Mohalla (Tarkhana Mang Mohra), falling in Ward No. 6 of Village Naili. It is further pleaded that, since not even a single candidate from Gugli-Nar Mohra had applied for the post, all eligible candidates belonging to the Revenue Village were entitled to be considered.

11. It is further submitted that the petitioner has failed to place any material on record to establish that he is a resident of Gugli-Nar. On the contrary, the documents placed on record by the petitioner along with the writ petition themselves demonstrate that the petitioner has deliberately misled this Court by making incorrect averments. A perusal of the representations submitted by the petitioner before the Deputy Commissioner, Rajouri, reveals that the petitioner objected to the consideration of the candidature of the answering respondent, namely Mohd. Haneef, as well as Ms. Nasreen Akhtar, on the ground that the said candidates were residents of different Mohras of Revenue Village Naili. However, a perusal of the voter list of the year 2011 pertaining to Mohra Lower Naili of Village Naili would reveal that although Mohd. Haneef S/o Mohd. Zaman, whose candidature was objected by the petitioner, does not figure in the said voter list, his father is reflected therein at Serial No. 156. It is, therefore, submitted that the petitioner objected to the candidature of Mohd. Haneef on the ground that he

belonged to Lower Naili (Ward No. 4), while conveniently failing to disclose that his own parents also figure in the same voter list at Serial Nos. 82 and 83 under Khana No. 22. Similarly, the other candidate objected to by the petitioner, namely, Nasreen Akhtar, figures at Serial No. 115 of the said voter list, along with her father, who is reflected at Serial No. 112. It is further submitted that, initially, when the voter list for the Panchayat Elections of 2011 was issued by the Electoral Registration Officer, the voters of Mohra Lower Naili were shown under Mohra Gugli-Nar, however, subsequently, necessary corrections were carried out by the competent authority, pursuant to which the parents of the petitioner came to be reflected in the voter list of Mohra Lower Naili.

12. It is specifically pleaded that the qualification claimed by the petitioner is also doubtful on the face of the record, inasmuch as the petitioner passed his Matriculation examination from the J&K Board of School Education in the year 2007 and thereafter studied Class 11th as a regular student in the Arts Stream at International School, Rajouri, during the academic year 2006–2007. It is further submitted that, as per the documents placed on record, the petitioner claims to have acquired the qualification of 10+2 from the National Institute of Open Schooling, NCR Noida, in the year 2012. It is further contended that the qualification of 10+2 in the Science Stream acquired through the distance mode is not recognized by the State of Jammu and Kashmir. Accordingly, it is submitted that the writ petition, being devoid of merit, is liable to be dismissed.

LEGAL ANALYSIS

13. Heard learned counsel for the petitioner and perused the record. Also heard Mr. Rahul Pant, learned senior counsel appearing on behalf of the private respondent No.7.
14. 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 has been pleased to issue the following directions:-

“25. In view of the matter, we deem it appropriate to issue 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.”

15. Consequent upon the aforesaid directions, the impugned judgment of this Court stood modified to the extent indicated in Para 25 hereinabove. It was further made clear that all pending applications, including the applications for impleadment and intervention, shall also stand disposed of in terms of the detailed judgment passed by the Hon’ble Apex Court dated 30.04.2026.
16. Mr. Anuj Dewan Raina, learned counsel appearing on behalf of the petitioner, drew the attention of the Court to the tentative panel notified vide Notification dated 17.08.2013, which has been placed on record as Annexure-K with the instant petition, a perusal thereof reveals that the said panel was tentative in nature and pertained to the engagement of RETs in the Districts of Kishtwar, Doda, Samba, Reasi, Ramban, and Rajouri.
17. It is also pertinent to notice that the petitioner seeks quashing of the tentative panel on the ground that the selection was required to be made

at the habitation level and that he, being a resident and eligible candidate of Habitation Gugli-Nar, was entitled to be considered against the post in question. The private respondent, however, has specifically disputed the very basis of the petitioner's claim by contending that the petitioner is not a resident of Gugli-Nar and has relied upon documents whose authenticity and contents have been seriously disputed. It has further been pleaded that the petitioner's own documents disclose his residence in another Mohra of Revenue Village Naili and that his eligibility in terms of the prescribed educational qualification is also open to doubt. Thus, the claim of the petitioner does not rest merely upon a challenge to the tentative panel, but would require determination of disputed questions relating to his residence, eligibility and entitlement to be considered against the post in question.

18. More importantly, even if the petitioner's challenge to the tentative panel and the aforesaid objections raised by the private respondent were to be examined, acceptance of the petitioner's prayer would necessarily require reopening the selection process, reconsideration of the candidates and creation of a fresh right of selection and engagement in favour of a candidate who admittedly does not figure in the prepared select panel. The ad-interim direction passed by this Court on 20.09.2013, whereby the impugned panel was stayed, also cannot be construed as conferring any substantive right of selection or engagement upon the petitioner. The interim protection was intended only to preserve the position during the pendency of the proceedings and cannot be treated as a basis for reviving or continuing the erstwhile ReT Scheme after its closure. Any direction at this stage requiring reconsideration of the petitioner's candidature or his engagement would, therefore, have the effect of reopening the selection process under the closed ReT Scheme and would run contrary to the express clarification issued by the Hon'ble Supreme Court in *Saba Wani (supra)*.

19. Admittedly, the petitioner does not figure in the select panel. Therefore, in view of the directions passed by the Hon'ble Apex Court in '**Union Territory of Jammu and Kashmir & Ors. v. Saba Wani**', referred to hereinabove, no relief can be granted to the petitioner at this stage. The directions issued by the Hon'ble Apex Court are intended to protect the rights of candidates who had already been placed in the select panels and cannot be invoked for the purpose of creating a fresh right in favour of a candidate who was not part of the prepared select panel. Granting the relief sought by the petitioner would, therefore, amount to reopening the selection process and reviving the erstwhile ReT Scheme, which stands expressly precluded by the aforesaid judgment.
20. The Hon'ble Apex Court has further clarified that the candidates appointed pursuant to directions (a) and (b) from the select panel under the RET Scheme shall acquire the minimum qualifications prescribed under the NCTE Regulations and Notifications, including qualification of the TET, within a period of three years and within three attempts from the date of their engagement/appointment. Accordingly, the directions (a) to (j) referred to hereinabove are applicable only to those candidates whose names figure in the select panel. In the present case, the petitioner admittedly does not find place in the select panel and, therefore, no relief can be granted to him at this stage on the basis of the tentative panel, wherein the private respondent has been placed above the petitioner.

CONCLUSION

21. Therefore, in view of the judgment passed by the Hon'ble Apex Court and the subsequent developments, the instant petition has been rendered infructuous. The relief sought by the petitioner cannot be granted at this stage, as the same would amount to reviving the RET Scheme, which would be in direct conflict with the directions issued by the Hon'ble Apex Court.
22. Thus, viewed from any angle, the writ petition stands rendered infructuous in view of the aforesaid developments and the law laid down

by the Hon’ble Apex Court. The same is, accordingly, dismissed. However, dismissal of the instant writ petition shall not come in the way of the petitioner from availing such other remedy as may be available to him before the appropriate forum, in accordance with law, if so advised.

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

(Wasim Sadiq Nargal)
Judge

Jammu:
11.08.2026
Vijay

<i>Whether judgment is speaking</i>	:	<i>Yes/No</i>
<i>Whether judgment is reportable</i>	:	<i>Yes/No</i>