

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

SWP No. 2015/2013
IA No. 3351/2015

*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***

**Kamal Singh, age 34 years S/o Sh Soba Ram
R/o Village Judda Tehsil Mahore District Reasi**

.....Petitioner(s)

Through: Mr. R K S Thakur, Advocate

- 1. State of J&K through Commissioner/Secretary
Government, Education Department, Civil Secretariat,
Jammu.**
- 2. Director School Education, Jammu.**
- 3. Chief Education Officer, Reasi.**
- 4. Zonal Education Officer, Arnas.**
- 5. Abdul Jabbar S/o Sh. Abdul Majid Bhat,
R/o Village Judda Tehsil Mahore, District Reasi**
- 6. Javed Iqbal S/o Sh. Abdul Gani, R/o Village Judda
Tehsil Mahore, District Reasi.**
- 7. Shamas Din S/o Sh. Hasham Din, R/o Village Judda
Tehsil Mahore, District Reasi.**
- 8. Abdul Shakoor Bhat, S/o Abdul Majid R/o Village
Judda Tehsil Mahore, District Reasi.**
- 9. Mohd Ikhlq S/o Mushtaq Ahmed R/o Village Judda
Tehsil Mahore, District Reasi.**

..... Respondent(s)

Through: Mr. Suneel Malhotra, GA for R-1 to 4
Mr. Mumtaz Chowdhary, Adv for R-5&6

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) Writ of Certiorari quashing the selection of respondents 5 and 6 and inclusion of respondents 7 to 9 in the panel list for the posts of Rehbar-e-Taleem teacher for Government Primary School Silly and Government Primary School Surwah as being unconstitutional, arbitrary and discriminatory.
- b) Writ of Mandamus commanding the respondents 1 to 4 to select and appoint the petitioner against one post of Rehbar-e-Taleem teacher either in Government Primary School Silly and Government Primary School Surwah of revenue Village Judda with all consequential benefits.

BRIEF FACTS

2. The facts in brief are that the petitioner passed the Higher Secondary Part-II Examination from the J&K State Board of School Education and thereafter obtained a Bachelor of Arts degree in the year 2009, securing 703 out of 1650 marks.
3. It is submitted that the respondent No. 3 issued Advertisement Notice dated 10.10.2012 inviting applications for engagement of Rehbar-e-Taleem (ReT) Teachers in various Government schools of District Reasi, including one post each for Government Primary School, Silly and Government Primary School, Surwah, both of which had been upgraded from EGS Schools. The petitioner, being fully eligible, applied for the said posts along with all requisite testimonials, including a valid RBA certificate. The private respondents 5 to 9 also applied for the aforesaid posts. The petitioner alleges that the higher educational qualifications relied upon by the said respondents are either not recognized or have been obtained in violation of the prescribed eligibility norms as he has obtained copies of

their academic records under the Right to Information Act and form part of the record.

4. It is alleged that respondent No. 5 (Abdul Jabbar) pursued and completed M.A. (Urdu) and M.A. (History) courses from Maulana Azad National Urdu University (MANUU) before completing his B.A. degree, rendering the chronology of his academic qualifications inherently inconsistent. It is further alleged that he simultaneously pursued multiple diploma courses during the same academic period, making the claimed qualifications doubtful and warranting verification. The respondent No. 6 (Javed Iqbal) claims equivalence of the Adeeb-e-Kamil qualification obtained from Jamia Urdu, Aligarh with a Bachelor's Degree and, on that basis, admission to the M.A. (Urdu) programme at MANUU. The petitioner contends that the said qualification is neither recognized by the competent authorities nor legally equivalent to a Bachelor's Degree, thereby rendering his higher qualification invalid. Similar objections have been raised against respondent No. 7 (Shamas Din), who claims that Fazil Urdu awarded by Jamia Urdu, Kashmir is equivalent to Graduation and formed the basis for his admission to the M.A. programme at MANUU. According to the petitioner, neither the said qualification nor the subsequent M.A. degree possesses valid recognition in law. The respondent No. 8 (Abdul Shakoor) is alleged to have secured admission to the B.A programme at MANUU before passing the Higher Secondary Examination, thereby making the claimed qualification academically impossible. Likewise, respondent No. 9 (Mohd. Ikhlq) is alleged to have appeared in the BCA programme before

qualifying the Higher Secondary Examination and to have obtained the qualification through an unauthorized study centre. The petitioner asserts that these qualifications are invalid and liable to be ignored. The petitioner contends that respondents 5 to 9 were nevertheless treated as eligible and included in the select panel despite the alleged irregularities in their educational qualifications. It is, accordingly, pleaded that their selection and empanelment are arbitrary, illegal and contrary to the applicable rules, and therefore liable to be quashed.

REPLY ON BEHALF OF THE OFFICIAL RESPONDENTS.

5. Reply on behalf of the official respondents has been filed by Mr. Suneel Malhotra, learned GA wherein it has been contended that the petitioner has not come to the Court with clean hands and has deliberately suppressed/misrepresented material facts, as such, not entitled to be granted any equitable relief.
6. Mr. Malhotra, learned GA further submits that the issue involved in the instant petition has already been considered by this Court in several cases and it has been held that once the scheme has been closed, no direction can be sought for appointment under a scheme which is no more in vogue. Otherwise also the law is well settled that till the person is not formally appointed against a post and he/she joins the post, he does not have any vested right against the post and merely by issuance of the advertisement notification and the participation in the selection process does not confer any indefeasible right for appointment, as such there exists no room for the

further operation/continuation of the RET Scheme for the appointment of RET teachers in the Union Territory of J&K. In view of the same, the writ petition filed by the petitioner has become infructuous as the petitioner cannot seek a direction to the respondents to compel them to perpetuate the RET Scheme in Union Territory of J&K for various reasons enumerated hereinabove, as such, the writ petition in the peculiar facts and circumstances and the legal position merits dismissal.

REPLY ON BEHALF OF THE PRIVATE RESPONDENTS 5 & 6

7. Objections have been filed by Mr. Mumtaz Choudhary, learned counsel appearing on behalf of private respondents Nos. 5 and 6. It is submitted that respondent No. 5 obtained admission to the M.A. (History) programme in December, 2009 and successfully completed the course in October, 2011. It is further submitted that the Diploma in Computer Education and Multilingual D.T.P., completed by respondent No. 5 in October, 2010, was awarded by the National Council for Promotion of Urdu Language, which is not a university, and such diploma courses can be pursued simultaneously with a regular university course. He further submits that both diplomas relate to the same programme and, therefore, bear a common serial number.
8. It is further submitted that respondent No. 5 passed the Matriculation Examination in 2002 and the Higher Secondary (10+2) Examination in 2005–06 from the J&K Board of School Education. Thereafter, he enrolled in the B.A. programme at Maulana Azad National Urdu University

(MANUU), a Central University established under an Act of Parliament. Owing to domestic circumstances, he could not complete the B.A. course and, in the meantime, obtained the Fazil-i-Urdu qualification from Jamia Urdu, Kashmir during the academic session 2006–07. According to the respondents, the said qualification is recognized by MANUU for admission to its M.A. (Urdu) programme, on the basis of which respondent No. 5 secured admission and completed the said course.

9. Learned counsel has further relied upon communication dated **02.09.2003** issued by the University Grants Commission to the Registrar, MANUU, clarifying that MANUU, having been established by an Act of Parliament, enjoys the same status as any other Central University. With regard to respondent No. 6, it is submitted that he had also obtained the Fazil qualification from Jamia Urdu, Kashmir and was validly admitted to the M.A. (Urdu) programme at MANUU on the strength thereof. It is, therefore, contended that the educational qualifications possessed by respondents Nos. 5 and 6 are valid and duly recognized. Lastly the learned counsel prayed that the writ petition filed by the petitioner may kindly be dismissed with exemplary costs.
10. Record further reveals that this Court vide order dated 15.10.2015 while entertaining the instant matter, by way of ad-interim direction, has passed the following direction:

“Meanwhile, as ad interim, subject to objections and till next date before the Bench, engagement process pursuant to Notification dated 05.06.2015 *vis- a- vis* aforementioned post of Rehbar-e-Taleem shall stay.”

LEGAL ANALYSIS

11. Heard learned counsel for the petitioner and perused the record. Also heard Mr. Suneel Malhotra, learned GA as well as Mr. Mumtaz Choudhary, learned counsel appearing for the private respondents 5 and 6.
12. 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.*

13. Before advertng to the binding effect of the aforesaid judgment on the claim of the petitioner, it is pertinent to notice the nature of the relief sought in the present petition. The petitioner seeks quashing of the selection of private respondents Nos. 5 and 6 and the inclusion of private respondents Nos. 7 to 9 in the select panel and, consequently, seeks a direction for his own selection and appointment against one of the posts of Rehbar-e-Taleem Teacher in Government Primary School, Silly or Government Primary School, Surwah. The challenge of the petitioner is primarily founded upon the alleged lack of recognition or validity of the educational qualifications possessed by the private respondents. The private respondents, however, have specifically disputed the said allegations and have placed on record material in support of the validity and recognition of their qualifications. Thus, the relief sought by the petitioner would necessarily require examination of the disputed claims relating to the eligibility and qualifications of the candidates who were selected and empanelled, followed by a fresh exercise for determining the petitioner's entitlement to selection and appointment under the erstwhile ReT Scheme.
14. Even assuming, for the sake of argument, that the petitioner were to succeed in establishing any infirmity in the qualifications or eligibility of the private respondents, the same by itself cannot result in a direction for his appointment at this stage. Acceptance of the petitioner's prayer would necessarily entail disturbing the prepared select panel, reopening the selection process and creating a fresh right of selection and appointment in

favour of the petitioner, who admittedly does not figure in the select panel. The ad-interim direction passed by this Court during the pendency of the petition also cannot be construed as conferring any substantive or vested right of appointment upon the petitioner. Such interim protection was intended only to preserve the position during the pendency of the proceedings and cannot be treated as a basis for reviving the erstwhile ReT Scheme after its closure. More importantly, in view of the latest judgment of the Hon'ble Supreme Court in "***Union Territory of Jammu and Kashmir & Ors. v. Saba Wani***", no direction can now be issued which would have the effect of reopening the selection process or creating a fresh right of appointment in favour of a candidate who was not part of the prepared select panel. Any such direction would, therefore, amount to reviving the closed ReT Scheme and would run contrary to the express directions issued by the Hon'ble Supreme Court.

15. 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 appointment under the erstwhile ReT Scheme. The directions issued by the Hon'ble Supreme Court are confined 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.

16. 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

17. 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.
18. 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.
19. Interim direction, if any, shall stand vacated.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
11.08.2026
Vijay

Whether the judgment is speaking: Yes/No
Whether the judgment is reportable: Yes/No

