

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

WP (C) No. 1607/2025

Prashant Jijyal

.....Applicant(s)/Petitioner(s)

Through :- Mr. P.N. Raina, Sr. Advocate with
Mr. J.A. Hamal, Advocate

v/s

UT of J&K and Others

.....Respondent(s)

Through :-

CORAM: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER

13.05.2026

1. By this petition, the petitioner herein has challenged order dated 20.06.2025, passed by the Deputy Commissioner, Jammu in case titled "*Parshant Jijyal vs. Tehsildar South*", whereby the appeal filed against the order of rejection of the application for issuance of Socially and Educationally Backward Classes (SEBC) Certificate has been rejected. The petitioner herein has also challenged order dated 19.06.2025, passed by the Tehsildar South, whereby the application of the petitioner for the issuance of Socially and Educationally Backward Classes (SEBC) Certificate in his favour was rejected.
2. Learned Senior counsel appearing for the petitioner has produced copy of the judgment passed by this Court in CRMC No. 501/2018 titled "*Hakeem Muzafar Khaliq vs. Inspector General, Crime Branch, Srinagar and Others*" wherein Rule 22 of the Jammu and Kashmir Reservation Rules, 2005 has been interpreted at Paragraph

Nos. 14, 18 and 19 of the judgment (supra). For facility of reference, paragraphs 14, 18 and 19 of the judgment are reproduced hereunder:-

“14. Cumulative effect on bare reading of aforementioned provisions of Reservation Act, 2004 read with Reservation Rules 2005 is that socially and educationally backward classes has been defined to include weak and under-privileged classes (Social Castes) under section 2 (o) (3) of Jammu and Kashmir Reservation Act, 2004. However, the second proviso to Section 2 (o) specifies the persons who shall be excluded from the category of socially and educationally backward classes. In the context of the present case, Section 2 (o) (iii) read with sub clause (ix) of second proviso says that any person whose annual income from all sources does not exceed Rupees Four Lac Fifty Thousand is entitled to be declared as socially and educationally backward class. However, the proviso to Sub-Clause (ix) says that the income ceiling shall not apply to a person who has lived and completed entire school education from an area identified as backward or Actual Line of Control or International Border, as the case may be, and in case such schooling is not available in such area, from the nearest adjoining area.

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18. On the plain reading of the Rule 22 (i), it is crystal clear that two conditions have to be satisfied before the said rule could have been invoked by the Additional Deputy Commissioner, Kulgam. First condition is

petitioner should be living with his parents. And, second condition is petitioner should be dependent upon his parents. It is important to note that word and has been used in the rule which clearly depicts that both the conditions have to be fulfilled/satisfied for invocation of the said rule. In the present case, admittedly the Petitioner is not dependent upon his parents, as such the rule is not applicable. Further, even if this rule is applicable, then rule itself says that only the income of parents has to be taken into count. Why it is so, because intention of the legislature has been that if a person is dependent upon his parents then it is decipherable that he has no income of his own and then only the income of the parents can be taken into count. This rule does not say that the income of the person/petitioner and his parent has to be taken into count. As such the legislative intention is very clear that both the conditions have to be satisfied for invocation of Rule 22 (i). If only one of the aforesaid conditions is being fulfilled/satisfied then the income of the parents is not to be taken into count. Applying the aforesaid legal position to the facts of the present case, it is an admitted position that petitioner is a government employee, as such not dependent upon his parents. In view of the above, the Petitioner's case 11 CRMC No. 501/2018 c/w OWP No. 2276/2018 does not fulfil the condition number second of Rule 22 (i), supra and it is his income alone which is to be taken into count. It is an admitted that the income of the Petitioner is Rs. 22,540, which accounts for annual income of Rs. 2,70,480 which is much less than the sealing limit of 4.50 lacs..

19. I am of the considered opinion that the Rule 22 is apparently clear that a son or a daughter on being employed or gainfully engaged, ceases to be dependent upon his/her father as the case may be. Thus, for the purpose of Reservation Rules, the salary or income derived from the petitioner's employment has to be taken into count and not the income of his father. The Additional Deputy Commissioner Kulgam, however, on wrong interpretation of Rule 22(i) of the Reservation Rules 2005, has held that the annual income of both the petitioner and his father exceeds the ceiling limit of Rs.4.50 lacs, which comes out to be Rs.5,04,180/- and accordingly, has cancelled social caste certificate issued in favour of the petitioner vide impugned order, which thus cannot sustain the test of law, on this count only impugned order does not stand test of law. In view of the fact, that twin conditions have to be satisfied before invocation of Rule 22 (i) of Reservation Rules, the fact that whether petitioner was living with his parents or not, is of no relevance."

3. Learned Senior counsel appearing for the petitioner has also produced copy of the order passed by the Deputy Commissioner, Jammu in an appeal titled "*Nishan Singh vs. UT of J&K*", whereby Deputy Commissioner, Jammu, relying upon the judgment passed in CRMC No. 501/2018 c/w OWP No. 2276/2018, has accepted the appeal of the applicant thereby setting aside order of the Tehsildar Akhnoor.
4. It has also been directed by the Deputy Commissioner, Jammu in an appeal (supra) that the income of the applicant alone shall be taken

into consideration for the purpose of determining eligibility under the OBC category in accordance with Rule 22(ii) of the J&K Reservation Rules, 2005 and in terms of the eligibility criteria laid down in case titled "*Hakeem Muzafar Khaliq vs. Inspector General, Crime Branch, Srinagar*" passed in CRMC No. 501/2018.

5. Ms. Monika Kohli, learned Sr. AAG after examining the judgment passed in CRMC No. 501/2018 and the order passed by the Deputy Commissioner, Jammu has fairly conceded that the instant petition has to be remanded to respondent no. 2 for fresh consideration.
6. In view of the above, this petition is disposed of with a direction to respondent no. 2 to consider the appeal, filed by the petitioner, afresh, within a period of one month from the date of passing of this order.

JAMMU
13.05.2026
Manik

