

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

**WP(C) No. 2138/2026
CM No. 4614/2026**

Naheed Kouser

.....Appellant(s)/Petitioner(s)

Through: Mr. Bari Abdullah, Advocate.

vs

UT of J&K and others

..... Respondent(s)

Through: Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Advocate.

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER(ORAL)

15.07.2026

1. The instant writ petition has been filed by the petitioner for commanding the respondents to consider the case of the petitioner for selection as a Rehabber Taleem Guide/Teacher Middle School Sahib Karmara Poonch.
2. It is stated that after the petitioner applied for the above mentioned post, the panel was prepared by the respondents and the petitioner being 12th and Scheduled Tribe was shown as S. No. 1, but the candidate at S. No. 2 filed an appeal before the Deputy Commissioner Poonch and on that appeal, after hearing both the parties, the appellate authority dismissed the appeal on 15.01.2015 of the candidate at S. No. 2 in the panel and thereafter another appeal was preferred against the order of Deputy Commissioner Poonch before the Divisional Commissioner, Jammu and that too was dismissed on 21.07.2018. Thereafter, the case of the petitioner was processed by the

respondents, but due to closure of the RET Scheme by the UT of J&K, the matter was deferred and could not be considered, however, in view of the judgment passed by the Hon'ble Apex Court in RET matter in SLP No. 12210 of 2023 tilted UT of J&K and other vs. Saba Wani, the petitioner is seeking consideration of her case.

3. Issue notice to the respondents.
4. Ms. Saliqa Sheikh, Advocate waives notice on behalf of the respondents. She has drawn the attention of this Court towards Para 25(h) of the judgment relied upon by the learned counsel for the petitioner and submits that the claim of the petitioner cannot be considered, particularly in view of the fact that the petitioner had not initiated any litigation prior to the judgment (supra) of the Hon'ble Apex Court and when no litigation was pending on the date of judgment, the relief sought by her can't be granted.
5. **Heard learned counsel for the parties.**
6. The petitioner has relied upon the judgment passed by the Hon'ble Supreme Court of India in case titled as **Union Territory of Jammu & Kashmir and others vs. Saba Wani** reported in **2026 INSC 439**, relevant para No. 25 whereof is extracted as under:

“25. In this 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 respect to seniority or regularization as directed 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 judgement. 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.*

7. In terms of Para 25(h) of the judgment (supra), it has been specifically provided by the Hon'ble Supreme Court of India that the directions contained in Para 25(a) to (g) shall apply to all the candidates who are litigating in any Court and all such cases that have been filed prior to

the date of judgement (supra). The Hon'ble Supreme Court has 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.

8. In view of the above, this Court is of the considered view that the instant writ petition is misconceived and the same is, accordingly, **dismissed, along with the connected application.**

Jammu
15.07.2026
Sahil Padha

