

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

...

WP(C) No. 2201/2021

CM No. 7879/2021

Reserved on: 29.06.2026

Pronounced on: 03.07.2026

Uploaded on: 03.07.2026

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

Gurdeep Singh (Age No. 46 years)
S/o S. Jaspal Singh, R/o Village Raika
Labana, Tehsil and District Samba.

.....Petitioner(s)

Through: **Mr. Nitin Bhasin, Advocate**

Versus

1. Union Territory of Jammu and Kashmir through Commissioner/ Secretary to Govt. School Education Department, Civil Secretariat, Jammu/Srinagar.
2. Director, School Education, Jammu.
3. Chief Education Officer, Samba.
4. Zonal Education Officer, Ramgarh (District Samba)

.....Respondent(s)

Through: **Mr. Suneel Malhotra, GA**

CORAM: HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. Respondent No. 3, vide Advertisement Notice dated 27.04.2011, invited fresh applications to fill up two vacancies for the post of

Rehbar-e-Taleem (ReT) Teacher for the target year 2009-10 under the Sarva Shiksha Abhiyan (SSA) at the newly established Primary School, Raika Jougian, Zone Ramgarh. Pursuant to the said notice, the petitioner, possessing the educational qualifications of B.Sc. and B.Ed., submitted his candidature for engagement as a ReT Teacher at the aforementioned school. In addition to the petitioner, eleven other candidates also applied for the said posts.

2. Respondent No. 4 then prepared an *inter se* merit list of the twelve eligible candidates, ranking the petitioner at Serial No. 2. On 28.05.2011, a tentative selection panel was prepared reflecting the petitioner at Serial No. 2 and one Ms. Sukhvinder Kour (M.A., B.Ed.) at Serial No. 1. All members of the Village Education Committee signed this tentative panel, and objections were invited against the said panel. Since no objections were filed against the panel, the panel became final for the engagement of ReT Teachers at Primary School, Raika Jougian.
3. Since Raika Jougian did not qualify as an independent 'habitation' under the parameters of Government Order No. 288-Edu of 2009 dated 08.04.2009, the merit panel was prepared on the basis of the Revenue Village as the unit of selection. Upon realizing that no resident of Raika Jougian was included in the said panel, the local inhabitants approached the Sarpanch and Panches of Panchayat Halqa Raika Labana. They requested that the operationalization of the newly opened Primary School be deferred until their habitation was formally accorded Revenue Village status. Yielding to this public demand, the

Sarpanch approached respondent No. 3, who accepted the Panchayat's representation and formally endorsed it vide communication dated 01.06.2011. Consequently, the selection process initiated under the Advertisement Notice dated 27.04.2011 was kept in abeyance.

4. The petitioner and one Ms. Sukhvinder Kour, whose names appeared in the select panel, challenged respondent No. 3's endorsement by filing SWP No. 1304/2011. Later, through the counter-affidavit/objections filed by the respondents, the petitioner revealed that the decision to open the Primary School at Raika Jougian had been withdrawn. This withdrawal was prompted by requests from the Village Panchayat and political pressure from the local MLA and the then Minister for Industries and Commerce. A corrigendum reflecting this withdrawal was published in the *State Times* newspaper on 18.06.2011. In light of these facts, the petitioner subsequently amended the writ petition to challenge the validity of the 18.06.2011 corrigendum.
5. A Coordinate Bench of this Court in terms of judgment dated 05.10.2018, allowed the writ petition and quashed the corrigendum issued by the respondent No. 3 with the direction to respondents to take the selection process initiated vide Advertisement Notice dated 27.04.2011 to its logical conclusion by recommending the panel to the higher authorities. The Coordinate Bench further directed that if the petitioner is ultimately found to be eligible and entitled to selection as ReT Teacher on the basis of his merit, a formal order of his engagement be issued and the respondents were further directed to

culminate the whole process and issue the letter of engagement in favour of the selected candidate within a period of two months from the date of receipt of copy of the judgment dated 05.10.2018.

6. Due to the respondents' failure to implement the judgment dated 05.10.2018 passed by the Coordinate Bench, the petitioner filed contempt petition bearing CPSW No. 22/2019. This contempt petition was taken up during the Covid-19 pandemic and disposed of on 02.06.2020. The learned Single Judge closed the proceedings after recording that the respondents had considered and rejected the petitioner's case vide order dated 07.02.2020, while granting the petitioner liberty to challenge the rejection through fresh proceedings. In the rejection order dated 07.02.2020, respondent No. 3 denied the petitioner's engagement as a ReT Teacher by retrospectively applying Government Order No. 919-Edu of 2018 dated 16.11.2018, under which all pending selection panels lacking formal appointment orders were deemed cancelled/withdrawn.
7. Through the medium of the instant writ petition, the petitioner assails not only Government Order No. 919-Edu of 2018 dated 16.11.2018 issued by respondent No. 1, whereby all advertisement notices and selection panels for the engagement of ReT Teachers lacking formal engagement orders were cancelled and withdrawn *ab initio*, but also challenges the rejection order dated 07.02.2020 passed by respondent No. 3. Additionally, the petitioner seeks a writ of Mandamus commanding the respondents to finalize the selection process for the two posts of ReT Teacher at Primary School, Raika Jougian, Zone

Ramgarh, in terms of the panel prepared by respondent No. 4 pursuant to the Advertisement Notice dated 27.04.2011. The petitioner further seeks a direction to engage him as a ReT Teacher at the said school retrospectively from the date other candidates selected in the different Zones of District Samba under the same advertisement notice, were engaged, along with all consequential benefits.

8. The petitioner challenges the impugned Government Order dated 16.11.2018 primarily on the ground that an administrative order cannot operate retrospectively to divest a citizen of accrued or vested rights. Furthermore, the petitioner submits that the executive cannot, through an administrative fiat, strip this Hon'ble Court of its judicial power or impair existing litigations, as doing so violates the mandate of the Constitution. In the present case, the petitioner's rights were established after nearly seven years of litigation, concluding with the Coordinate Bench's judgment dated 05.10.2018. Because the petitioner's case was merely awaiting the ministerial act of implementing that judgment, the subsequent policy decision to close the ReT Scheme cannot retrospectively defeat a binding judicial mandate. To apply the Government Order in a manner that denies the petitioner the fruits of his successful litigation in SWP No. 1304/2011 is *ex-facie* illegal and unconstitutional.

9. The respondents, in their reply, have merely reiterated their previous stance, contending that the petitioner is not entitled to any relief in light of the subsequent closure of the ReT Scheme. In support of this contention, the respondents have placed reliance upon an interim

order passed by the Hon'ble Supreme Court of India in the case of *Jatinder Singh v. State of J&K and Ors.*

10. Mr. Nitin Bhasin, learned counsel for the petitioner, has drawn the attention of this Court to the fact that the petitioner figured at Serial No. 2 both in the initial merit list and the panel prepared by respondent No. 4. He would submit that since no objections were preferred against the said tentative panel, the panel attained finality. He further urges that this position stood judicially affirmed by a Coordinate Bench of this Court in the earlier round of litigation vide judgment dated 05.10.2018, which went unchallenged by the respondents and consequently holds the field. He has vehemently argued that the impugned order dated 07.02.2020 was passed solely on the ground of the formal closure of the ReT Scheme. However, in view of the law settled by the Hon'ble Supreme Court in ***Union Territory of Jammu and Kashmir & Others v. Saba Wani, 2026 INSC 439***, the subsequent closure of the scheme cannot retrospectively impair the rights of merit-holders placed in select panels. Consequently, the petitioner is fully entitled to engagement, and the respondents cannot deny him the same on account of an administrative policy change.
11. Per contra, Mr. Suneel Malhotra, learned counsel for the respondents, argues that the selection panel prepared by respondent No. 4 was strictly tentative and subject to objections. At the same time, he has very fairly conceded that no objections were ever preferred against the petitioner's placement in the said panel.

12. Heard and perused the record.
13. The record reflects that the petitioner's placement at Serial No. 2 in both the merit list and the tentative panel is completely undisputed. Given the admitted position that the respondents received no objections against the panel prepared by Respondent No. 4, the panel stood uncontested and consequently became final. In the earlier round of litigation, namely SWP No. 1304/2011, the Coordinate Bench of this Court issued the following directions:

“For the foregoing reasons, I find merit in the writ petition and the same is, accordingly, allowed. The impugned corrigendum issued by respondent No. 3 is quashed and a direction is issued to the respondents to take the selection process initiated vide Advertisement notification dated 27.04.2011 to its logical end. Refusal by the Village Education Committee to sign the panel, which is, otherwise, in accordance with SSA norms and Rehbar-e-Taleem Scheme shall not come in the way of respondent No. 4 to proceed further and recommend the same to Higher Authorities. An action which is in consonance with law cannot be left to the mercy of Village Education Committee, which is motivated by the considerations not countenanced by law. Needless to say that, if the petitioner is ultimately found to be eligible and entitled to selection as per the basis of his merit, a formal order of engagement in his favour be issued. Respondents would culminate the whole process and issue formal letter of engagement in favour of the selected candidates within a period of two months from the date a certified copy of this judgment is served upon the respondents.”

14. In terms of the judgment (supra) the impugned corrigendum issued by the respondent No. 3 therein was quashed and a direction was issued to the respondents to take the selection process initiated vide notification dated 27.04.2011 to its logical end. Refusal by the Village Education Committee to sign the panel, which is otherwise in accordance with the SSA norms and Rehbar-e-Taleem Scheme, shall not come in the way of the respondent No. 4 to proceed further and

recommend the same to the higher authorities. It was simultaneously observed that if the petitioner is ultimately found to be eligible and entitled to selection as ReT on the basis of his merit, a formal order of engagement in his favour be issued.

15. The Hon'ble Supreme Court of India in **Union Territory of Jammu and Kashmir & Others v. Saba Wani** (supra) has issued the following directions:

“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 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.”

16. In terms of the judgment (*supra*), the Hon’ble Supreme Court has explicitly held that the administrative closure of the ReT Scheme vide Government Order dated 16.11.2018 cannot operate retrospectively to

impair or extinguish the rights of merit-holders placed in a validly formulated selection panel. The Apex Court further mandated that candidates featuring in such select panels must be issued formal engagement and appointment orders in accordance with their respective merit positions, having regard to the availability of vacancies.

17. Once the petitioner figured at Serial No. 2 in the selection panel formulated by the respondents, and the said panel attained finality in the absence of any objections, his right to be considered for engagement as a ReT Teacher became absolute. This position stood judicially protected under the judgment passed in the earlier round of litigation. Consequently, the petitioner could not have been arbitrarily deprived of his right by a retrospective policy change. The impugned rejection order dated 07.02.2020 is, therefore, wholly unsustainable in the eyes of law and is liable to be set aside more particularly in light of the judgment of the Hon'ble Supreme Court of India.
18. Accordingly, the writ petition is disposed of in the following terms:
 - (i) The impugned order No. 548-CEOS of 2020 dated 07.02.2020 is hereby quashed and set aside.
 - (ii) The respondents are directed to consider the claim of the petitioner for engagement as a Rehbar-e-Taleem Teacher in PS Raika Jougian, Zone Ramgarh in terms of the judgment dated 05.10.2018 passed by the Coordinate Bench of this Court in SWP No. 1304/2011, and in the light of the directions issued by

the Hon'ble Supreme Court in “**Union Territory of Jammu and Kashmir & Others v. Saba Wani** (supra)”

- (iii) The respondents shall pass appropriate order strictly in accordance with law within the period prescribed by the Hon'ble Supreme Court in the aforesaid judgment.

(Rajnish Oswal)
Judge

Jammu
03.07.2026
Karam Chand

Whether approved for reporting? Yes/No

