

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

SWP No. 1791/2016

Maheshwari, Age 32 years, W/o Sh. Devinder Singh, ...Petitioner(s)
R/o Mohra Garh, Village & Panchayat Malti,
Tehsil Billawar, District Kathua.

Through: Mr. Abhimanyu Sharma, Advocate

- 1. State of J&K through Commissioner/Secretary to** Respondent(s)
Government, Education Department, J&K Civil
Secretariat, Jammu.
- 2. Director School Education, Jammu.**
- 3. Chief Education Officer, Kathua.**
- 4. Zonal Education Officer, Billawar.**
- 5. Mrs. Pooja Rani, age 30 years W/o Subash Singh,**
R/o Mohra Chobu, Mohalla Dunga Village Malti,
Tehsil Billawar.
- 6. Mrs. Jyoti Gupta, Age 28 years D/o Village Kumar**
R/o Mohra Surara, Village Malti, Tehsil Billawar.

Through: Mr. Sumeet Bhatia, GA for R-1 to 4
Mr. Keshav Verma, Advocate vice
Mr. Achal Sharma, Advocate for R-5

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT(ORAL)
(18.08.2026)

- 01.** The petitioner through the medium of instant petition has called in question the selection of private respondent as Rehbar-e-Taleem, besides seeking quashment of the tentative panel and consequently seeking a direction in the nature of mandamus to accord consideration to the case of the petitioner for engagement as RET in NPS Garh.
- 02.** For facility of reference, the prayer of the petitioner is reproduced as under:
- a) Certiorari: Quashing final select list of the candidates for engagement as RET under SSA/Govt. order No.635/522 of 2013 to the extent of zone Billawar Village Garh Malti.
- b) Certiorari: Quashing the appointment order No.ZEO/B/SSA/96-

97 DATED 27-08-2014 issued by ZEO BILLAWAR by which Pooja Rani respondent No. 5 was appointed as RET Teacher in NPS Garh Village Garh Malti, Zone Billawar, District Kathua.

- c) Certiorari: Quashing the tentative panel/ list of candidates containing name of candidates inclusive of respondent No. 5 and 6, prepared by respondent no.4 for the engagement of RET's in NPS Garh on vacant post in revenue village / Panchayat Garh Malti of Zone Billawar for the year 2011-12 vide CEO Kathua's No. CEO/K/3025-38 dated 26-05-2011 (DIP/JK-3029/11 dated 28-05-2011) and allegedly displayed on 14-09-2011 in village Garh Malti and also for quashing Tentative Panel No. DSEJ/RET/11352 dated 12-11-2012 containing the name of respondent no.5 only for engagement as RET in NPS Garh prepared by the respondent no. 2 in pursuance to advertisement No. CEOK/3025-38 dated 26-05-2011 DIP/JK-3029/11 issued by respondent no.3 under Sarv Shiksha Abhiyan (SSA) scheme.
- d) Certiorari: Directing the respondent nos.1to4 to consider the petitioner for engagement as R-e-T in NPS Garh as she is actual and permanent resident of Mohra Garh, which falls in revenue village / Panchayat Garh Malti of Education Zone, Billawar under SSA scheme because her name has also been enlisted in the merit list of the candidates who have applied for the said post, wherein names of 15 candidates including the petitioner and the respondent Nos. 5 & 6 have been incorporated in tentative panel / list displayed on 14-09-2011.
- e) Certiorari: quashing the tentative panel of candidates alleged to have applied for the post of RET for NPS Garh, wherein the names of respondent Nos. 5 and 6 have been displayed ignoring the claim as well as objections of the petitioner and her residence of Habitation/Mohra Garh, passed by the respondent No. 2 to 4 at the back of, without notice to and knowledge of the petitioner

violating the rules of natural and fundamental justice.

- f) Mandamus: Commanding the respondent Nos. 1 to 4 to issue another tentative panel for engagement of RET (Teacher) in NPS Garh including the name of the petitioner wherein she being the only and most eligible and competent candidate having requisite qualification for the post and having residence of the same Habitation / Mohra Garh while as respondent No. 5 and 6 are residing at distant places and in different Mohras of Village Garh Malti and they do not belong to the Habitation/Mohra where the said NPS Garh is situated, for which the post has been advertised.
- g) Prohibition restraining the official respondent Nos. 1 to 4 from selecting and allowing the respondent no. 5 & 6 or any other candidate to join and work as R-e-T (Teacher) under SSA scheme in NPS Garh.

03. Heard learned counsel for the petitioner and perused the record. Also heard learned counsel for the respondents.

04. 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**", 2026 INSC 439 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.*

- 05.** Since the Hon'ble Apex Court, in the judgment mentioned supra, has already, by virtue of Clause (i) of the directions issued in paragraph 25 of the said judgment, specifically clarified that the said 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 the prepared select panel or who failed to approach the Court within the stipulated time. In addition thereto, the Hon'ble Apex Court has issued various directions contained in clauses (a) to (j) of paragraph 25, which essentially deal with candidates who figured in the select panel. Insofar as Clause (h) of the aforesaid directions is concerned, it specifically provides that the directions contained in clauses (a) to (g) shall apply to all candidates who are litigating before any Court and whose cases had been filed prior to the date of the said judgment.
- 06.** Therefore, in the light of the law laid down by the Hon'ble Apex Court, it can safely be concluded that the directions contained in clauses (a) to (j) of paragraph 25 are applicable to candidates who figured in the select panel. The Hon'ble Apex Court has, at the same time, imposed a specific rider in Clause (i) that the said judgment, by no stretch of imagination, can be interpreted so as to create or confer any right upon candidates who were not part of the prepared select panel. Thus, a bare perusal of the law laid down by the Hon'ble Apex Court makes it abundantly clear that considerable emphasis has been placed upon the select panel and the rights, if any, flowing therefrom.
- 07.** In the instant case, when the petitioner was confronted with the aforesaid directions issued by the Hon'ble Apex Court, the learned counsel appearing

on behalf of the petitioner could not satisfy the Court as to whether the name of the petitioner figured in the select panel. Rather, the learned counsel for the petitioner has vehemently contended that, through the medium of the instant petition, the petitioner has called in question the engagement of the private respondent, which, according to him, was ex facie bad in the eyes of law and not in consonance with the RET Scheme.

08. The aforesaid issue, however, cannot be gone into at this stage in view of the law laid down by the Hon'ble Apex Court in case mentioned supra. Any such exercise would, in effect, amount to reviving the RET Scheme, which already stands closed, and would run contrary to the specific rider imposed by the Hon'ble Apex Court in Clause (i) of paragraph 25. Consequently, the grievance raised by the petitioner cannot be examined in the present proceedings in the manner sought for, in view of the binding directions and limitations laid down by the Hon'ble Apex Court.
09. Thus, in the light of the what has been observed hereinabove, the writ petition is rendered infructuous and in terms of the law laid down by the Hon'ble Apex Court, the same is dismissed.
10. Interim direction, if any, shall stand vacated.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
18.08.2026
Vijay