

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

SWP No. 1910/2015
IA No. 1/2015

*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***

**Raj Singh, age 36 years S/o Shri Shadi Lal
R/o Village Neera Tehsil & District Ramban**

.....Petitioner(s)

Through: Mr. M P Sharma, Advocate

- 1. Commissioner-Cum-Secretary to Government,
Education Department, Civil Secretariat, Srinagar.**
- 2. Director School Education, Jammu.**
- 3. Chief Education Officer, Ramban.**
- 4. Zonal Education Officer, Ramban.**

..... Respondent(s)

Through: Mr. Anishwar Chatterji Koul, GA
Mr. Adarsh Bhagat, GA

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

सत्यमेव जयते
JUDGMENT

PRAYER

1. The petitioner through the medium of instant petition has sought the following reliefs:

- a) To set aside or quash Advertisement notice vide its No:DIP/J-2070 dated 05.06. 2015 of Chief Education Officer (District Chairman, SSA) Ramban, so far as it pertains to a post falling in S.No:3 in aforesaid advertisement.
- b) To direct or command respondents for appointment of petitioner as RET in terms of panel prepared vide order No. CEOR/10/28130-33 dated 04.12.2010.
- c) To prohibit respondents from making selection in terms of advertisement dated 05.06.2015.

BRIEF FACTS

2. The brief facts leading to the filing of the present petition are that, pursuant to Government Order No. 597-Edu of 2003 and communication issued by the State Project Director, Sarva Shiksha Abhiyan (SSA), Srinagar, bearing No. Edu/SPD/SSA/27829-55 dated 04.08.2010, the respondents invited applications in the prescribed format from permanent residents of the erstwhile State of Jammu and Kashmir for engagement as Rehbar-e-Taleem (ReT) Teachers under the Sarva Shiksha Abhiyan (SSA). As per the applicable policy, such engagements were to be made on village basis in rural areas and on ward basis in urban areas. It is further submitted that, in furtherance of the aforesaid Government Order and communication, the Office of the Chief Education Officer, Ramban, issued Advertisement Notice No. DIP/J-8055 dated 07.12.2010, inviting applications for engagement of ReT Teachers against the posts sanctioned for newly opened Primary Schools under the SSA Scheme. The advertisement, inter alia, included vacancies pertaining to Education Zone Ramban, including those for newly established Primary Schools in the respective villages/wards falling within the said Zone.
3. It is the specific case of the petitioner that, being fully eligible in all respects, including age, educational qualifications, experience, and other prescribed criteria, he submitted his application in the prescribed format, along with all requisite documents, well within the stipulated time before the office of the respondents for his engagement as a Rehbar-e-Taleem

(ReT) Teacher against the post notified for the newly opened Primary School under the Sarva Shiksha Abhiyan (SSA) in Village Neera, Education Zone Ramban. It is further submitted that, after scrutiny of the applications, the petitioner, along with the other eligible candidates, was called for interview. In compliance with the interview call letter, the petitioner appeared before the Interview Committee, where his original documents relating to educational qualifications, experience, age, and proof of residence were duly verified by the respondents. Thereafter, in accordance with the instructions issued by the Zonal Education Officer, Ramban, a tentative merit panel was displayed in the concerned village for inviting objections from 25.12.2010 to 31.12.2010. Upon examining the said tentative panel, the petitioner found his name reflected at Serial No. 5 and was fully satisfied with his placement therein. However, the candidates figuring at Serial Nos. 6 and 13 submitted objections against the tentative panel in terms of Government Order No. 1639-Edu of 2003 dated 12.11.2003, Government Order No. 288-Edu of 2009 dated 08.04.2009, and communication No. DSEJ/RET/2430 dated 21.01.2011 issued by the Director, School Education, Jammu, primarily disputing the applicability and implementation of Government Order No. 288-Edu of 2009 dated 08.04.2009 in the preparation of the merit panel.

4. It is the further case of the petitioner that, upon the filing of objections by the candidates figuring at Serial Nos. 6 and 13 against the tentative merit panel prepared by the Zonal Education Officer, Ramban, the matter was

referred through the proper channel to the Director, School Education, Jammu for appropriate consideration. Since no effective decision was taken by the respondents, the petitioner was constrained to invoke the writ jurisdiction of this Hon'ble Court by filing a writ petition challenging the action of the respondents. In the said writ petition, the candidates figuring at Serial Nos. 1 and 2 of the final select panel were also impleaded as private respondents. It is submitted that this Court was pleased to issue notice to the respondents and, in the accompanying application for interim relief, restrained the respondents from issuing appointment orders in favour of the private respondents. Pursuant thereto, the official respondents entered appearance and filed their objections before this Hon'ble Court. Thereafter, upon reconsideration of the matter, the official respondents accepted the petitioner's contention and prepared the final select panel, wherein the candidates who had figured at Serial Nos. 6 and 13 in the tentative merit panel were placed at Serial Nos. 1 and 2, respectively, and were selected for engagement as Rehbar-e-Taleem (ReT) Teachers. Consequently, the selected candidates were directed to obtain their appointment orders and join their respective places of posting. It is further submitted that the candidate who had figured at Serial No. 13 in the tentative merit panel and was placed at Serial No. 2 in the final select panel obtained his appointment order and joined his assigned school. However, the candidate who had figured at Serial No. 6 in the tentative merit panel and was placed at Serial No. 1 in the final select panel neither obtained the

appointment order nor joined against the post for which he had been selected.

5. It is the specific case of the petitioner that, upon learning that the candidate placed at Serial No. 1 in the final select panel had neither accepted the appointment nor joined against the post of Rehbar-e-Taleem (ReT) Teacher in the newly opened Primary School, Mota, Village Neera, Education Zone, Ramban, the petitioner immediately submitted a detailed representation before the respondents setting out the true and correct factual position. In the said representation, the petitioner specifically pointed out that although his name figured at Serial No. 5 in the tentative merit panel, the candidates placed at Serial Nos. 1 to 4 were not willing or eligible to accept appointment in the newly opened Primary School, Mota, Village Neera, Education Zone, Ramban. It was further brought to the notice of the respondents that the candidate who had originally figured at Serial No. 6 in the tentative merit panel and was subsequently placed at Serial No. 1 in the final select panel had also failed to accept the appointment and did not join the said school, as he had already been selected and appointed as a permanent teacher elsewhere. The petitioner further submitted that, in the aforesaid circumstances, he was the only eligible and willing candidate available for engagement against the said post and, therefore, was entitled to be considered for appointment as a Rehbar-e-Taleem (ReT) Teacher in the newly opened Primary School, Mota, Village Neera, Education Zone, Ramban. However, instead of

considering the petitioner's representation and his legitimate claim in accordance with law, the respondents issued the impugned advertisement seeking to fill the very same post afresh. The issuance of the impugned advertisement is ex facie arbitrary, illegal, unconstitutional, and violative of the petitioner's vested and accrued rights. The action of the respondents is wholly contrary to the applicable Government Orders and the settled principles governing the selection and engagement of Rehbar-e-Taleem Teachers. Accordingly, the impugned advertisement, insofar as it pertains to the post in question, is liable to be quashed.

6. It is further submitted that the respondents were legally bound to undertake the process of selection strictly in accordance with Government Order No. 1639-Edu of 2003 dated 12.11.2003, read with Government Order No. 288-Edu of 2009 dated 08.04.2009, and Communication/Order No. DSEJ/RET/2430 dated 21.01.2011 issued by the Director, School Education, Jammu. However, the respondents initially failed to adhere to the aforesaid Government Orders while preparing the merit and select panels, compelling the aggrieved candidates to challenge the same before this Hon'ble Court. Consequently, the selection process was revisited and the claims of the aggrieved candidates were duly considered in accordance with the applicable Government Orders. It is further submitted that, during the pendency of the aforesaid proceedings, one of the selected candidates, namely Vipin Kumar, was appointed as a permanent teacher in another school and, therefore, neither accepted the appointment nor joined as a

Rehbar-e-Taleem (ReT) Teacher in the newly opened Primary School, Mota, Village Neera, Education Zone, Ramban. As a consequence, the vacancy remained unfilled and, in accordance with the applicable policy and the settled principles governing the selection process, the petitioner's claim, being the next eligible and willing candidate in the merit list, became liable to be considered for engagement against the said post. Despite repeated representations submitted by the petitioner and notwithstanding his legitimate claim arising out of the non-joining of the selected candidate, the respondents failed to consider his case in accordance with law. Instead, they issued the impugned advertisement proposing to fill the very same post afresh, without first considering the petitioner's accrued right to be considered for engagement. The action of the respondents is arbitrary, illegal, unreasonable, and violative of the aforesaid Government Orders as well as Articles 14 and 16 of the Constitution of India. It is respectfully submitted that the representations submitted by the petitioner have remained pending and undecided till date. In these circumstances, the petitioner has been left with no efficacious or alternative statutory remedy except to invoke the extraordinary writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India. Hence, the present writ petition.

7. 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

8. Heard learned counsel for the petitioner and perused the record. Also heard Mr. Anishwar Chatterji Koul as well as Mr. Adarsh Bhagat, learned Government Advocates.
9. 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.*

10. Before adverting to the binding effect of the aforesaid Apex Court 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 subsequent Advertisement Notice dated 05.06.2015 insofar as it pertains to the post in question and a consequential direction for his appointment on the basis of the panel prepared pursuant to the earlier selection process. The petitioner's claim is founded essentially upon his placement at Serial No. 5 in the tentative merit panel and his assertion that, upon the non-joining of the candidate subsequently placed at Serial No. 1 in the final select panel, he became entitled to be considered against the said post. However, the record, as noticed hereinabove, shows that the petitioner was never included in the final select panel. Thus, acceptance of the petitioner's prayer would necessarily require this Court to reopen the earlier selection process, reconsider the claims of the candidates in the light of the subsequent non-joining of a selected candidate and thereafter create a fresh right of selection and engagement in favour of the petitioner under the erstwhile ReT Scheme.
11. The ad-interim direction passed by this Court on 15.10.2015, whereby the engagement process pursuant to Advertisement Notice dated 05.06.2015 in respect of the post in question was stayed, also cannot be construed as

conferring any substantive or vested right of selection or engagement upon the petitioner. The said interim protection was intended only to preserve the position during the pendency of the proceedings and did not have the effect of reviving the earlier selection process or elevating the petitioner from his position in the tentative merit panel to the status of a selected candidate. More importantly, after the closure of the ReT Scheme and 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 earlier selection process or creating a fresh right of engagement in favour of a candidate who was not part of the prepared select panel. Granting the relief sought by the petitioner at this stage would, therefore, amount to reviving the erstwhile ReT Scheme and would run contrary to the express directions issued by the Hon'ble Supreme Court.

12. Admittedly, the petitioner was not figuring in the select panel. Therefore, in view of the directions passed by the Hon'ble Apex Court in case titled **“Union Territory of Jammu and Kashmir & Ors. v. Saba Wani”**, referred to hereinabove, the instant petition cannot be allowed, as any such relief would tantamount to reviving the ReT Scheme and conferring a right upon a candidate who was not figuring in the prepared select panel. The directions issued by the Hon'ble Apex Court are applicable to the candidates whose names figure in the select panel and in whose favour engagement/appointment orders are to be issued in terms of their

respective positions in the select panel, having regard to the available vacancies. Since the petitioner does not figure in the select panel, no relief can be granted to him at this stage.

13. 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

14. 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.
15. 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 and permissible under law.

16. 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

