

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

Reserved on: 03.08.2026

Pronounced on: 07.08.2026

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

WP(C) No.260/2022

RUKHSANA BANOO

...PETITIONER(S)

Through: - Mr. Bhat Fayaz, Advocate,
Ms. Nighat Amin, Advocate.

Vs.

UT OF J&K AND ORS.

...RESPONDENT(S)

Through: - Mt. T. A. Lone, Dy. AG-for R1 to R4.
Mr. S. N. Ratanpuri, Advocate-for R5

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) The petitioner, through the medium of present petition, has challenged enquiry report dated 18.02.2020, rendered by Deputy Commissioner, Baramulla, whereby it has been concluded that both the petitioner as well as private respondent are residents of Lumberdar Mohalla of village Ehtishampora of District Baramulla.

2) As per the pleadings of the parties, 28 Anganwadi Centers were sanctioned by the Government under expansion program, phase-III and one of the Anganwadi

centers was sanctioned at Lumberdar Mohalla
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Ehtishampora. Pursuant thereto, advertisement notice dated 31.08.2010 came to be issued by respondent No.4 inviting applications for the posts of Anganwadi Workers, *inter-alia*, for Anganwadi Center Lumberdar Mohalla, Panchayat Halqa Ehtishampora. Five applications were received in response to the said advertisement notice which included the applications of the petitioner and the private respondent. As per the report of the Supervisor, only two candidates were found actually residing in Lumberdar Mohalla Ehtishampora, which included the petitioner and one Haleema Bano. Accordingly, approval to the engagement of petitioner as Anganwadi Worker was conveyed by respondent No.2, vide communication dated 26.05.2010, whereafter, a formal engagement order came to be issued in favor of the petitioner on 27.05.2011. The petitioner is stated to have submitted her joining report on 28.05.2011.

3) It seems that the private respondent No.5 filed a writ petition bearing SWP No.1547/2011, whereby she challenged the selection of the petitioner. The writ petition was disposed of by this Court on 16.05.2019 with the direction to Deputy Commissioner, Baramulla, to adjudicate upon and decide the issue as regards residence of Shaheena Bano (respondent No.5 herein) within four weeks from the date of the said order, strictly in accordance with the

applicable rules/laws governing the field after putting the rival parties to notice and affording them patient hearing.

4) Pursuant to aforesaid order passed by this Court, an enquiry was conducted by Deputy Commissioner, Baramulla, through Additional Deputy Commissioner and impugned report dated 18.02.2020 was forwarded by Deputy Commissioner, Baramulla, under the cover of communication dated 17.02.2021 read with communication dated 13.08.2021 to respondent No.3 for further necessary action in the matter. It was concluded during the enquiry that selection has wrongly been made as both petitioner Rukhsana Banoo and private respondent Shaheena Banoo belong to the same Mohalla called as Lumberdar Mohalla.

5) Pursuant to the enquiry report and in compliance to the directions of the Deputy Commissioner Baramulla, spot verification/enquiry was conducted by respondent No.3 and the said respondent submitted his report to Deputy Commissioner Baramulla, stating that there is no geographical boundary separating the houses of Shaheena Bano and Rukhsana Banoo. Respondent No.3 thereafter forwarded communication dated 20.01.2022 to respondent No 4 with the direction to conclude the matter on the basis of the merit /qualification. Another communication was

addressed by respondent No.3 for accord of approval for termination of the petitioner and engagement of private respondent as Anganwadi Worker in Anganwadi Centre Lumberdar Mohalla Ehtishampora being more meritorious. In the meantime, the petitioner approached this Court through the medium of instant writ petition and in terms of interim order dated 18.02.2022, no further action could be taken in the matter by the official respondents as present status of petitioner Rukhsana Banoo was directed to be maintained by the Court.

6) The petitioner has challenged the impugned enquiry report rendered by the Deputy Commissioner, Baramulla, on the grounds that the same is perverse and that the Enquiry Officer has not chosen to hear the petitioner. It has been contended that the petitioner was not present before the Enquiry Officer at any point of time nor was she allowed to submit her documents. It has been further contended that the private respondent has failed to avail the remedy of appeal against the engagement order issued in favour of the petitioner, as such, she is estopped in law to challenge the order of engagement issued in favour of the petitioner. It has been contended that final order of engagement in favour of the petitioner was issued only after inviting objections. It has been further contended that the private respondent was not

eligible to apply for the post as she was not a resident of Lumberdar Mohalla, the habitation in which the Anganwadi Centre was established.

7) The stand of the official respondents is that as per the enquiry conducted by the Additional Deputy Commissioner, Baramulla, as also by the District Program Officer, ICDS, Baramulla, both petitioner as well as the private respondent belong to the same Mohalla, called as Lumberdar Mohalla and that there is no geographical boundary separating the houses of the two candidates, therefore, the private respondent, being more meritorious, is entitled to be engaged as Anganwadi Worker and the engagement of the petitioner is liable to be rescinded.

8) The private respondent in her reply to the writ petition, has reiterated the stand of the official respondents and has claimed that the engagement order issued in favour of petitioner is liable to be rescinded.

9) I have heard the learned counsel for the parties and I have also perused record relating to the selection produced by learned counsel appearing for the official respondents.

10) As per the merit list of the candidates prepared by the official respondents during the selection process, petitioner Rukhsana Bano is middle pass having obtained 29.75 points

whereas private respondent is matriculate and she has obtained 31.28 points. Thus, she is more meritorious than the petitioner. It is to be noted that in the first instance, the petitioner was engaged as Anganwadi worker on the basis that no matriculate candidate hailing from the habitation Lumberdar Mohalla was available as it was found that the private respondent is not a resident of Lumberdar Mohalla. The engagement order of the petitioner was put to challenge by the private respondents by way of a writ petition and this Court directed enquiry to be made by the Deputy Commissioner concerned with regard to status of residence of the petitioner as well as the private respondent. In the enquiry report, it has been concluded that both the petitioner as well as the private respondent belong to the same habitation i.e. Lumberdar Mohalla.

11) The petitioner has challenged the impugned enquiry report mainly on the ground that she has not been allowed to participate in the enquiry proceedings and that she has not been permitted to place on record her version along with the documents. In this regard, if we have a look at the impugned enquiry report, it is clearly noted that the petitioner, private respondent and the official respondents were summoned. It is also noted that the parties appeared before the Enquiry Officer on several dates and put forth

their averments. The Enquiry Officer has noted the points raised by both petitioner Rukhsana Begum as well as private respondent Shaheena Bano.

12) While noting the contentions raised by petitioner Rukhsana Bano, the Enquiry Officer has recorded her submission that she is married in Lumberdar Mohalla, Ehtishampora some 25 years back; that in the year 2010, she had applied for the post of Anganwadi Worker; that she did not appear in the interview but on the recommendations of Mohalla Baradari, she was engaged as Anganwadi Worker; that she was engaged on the basis of her qualification 8th pass because no other candidate from Lumberdar Mohalla was available within the prescribed qualification limit i.e. 10th pass; that she has been performing her duties continuously since the year 2010; that she was knowing that case was pending before the High Court since 2010; that Shaheena Bano is a resident of Khan Mohalla, as such, she has no claim for the post of Anganwadi Worker sanctioned Anganwadi Centre, Lumberdar Mohalla; that she is the lone candidate from Lumberdar Mohalla, as such, she may be allowed to continue as Anganwadi Worker.

13) From the aforesaid sequence of events, it is clear that the Enquiry Officer has not only afforded opportunity of

being heard to the petitioner but he has also meticulously noted the submissions made by her. The Enquiry Officer has analyzed the submissions and the documents produced by the parties. He has also conducted the spot verification, whereafter he has come to the conclusion that there is no water-tight boundary between Lumberdar Mohalla and Khan Mohalla whereas as a Nallah acts as a distinct geographical divide between Kashmiri Mohalla and Lumberdar Mohalla. He has further concluded that Zulfiqar Khan (father of private respondent herein) along with his brother is residing in the vicinity of Panchayat Halqa which falls in Lumberdar Mohalla and by this proposition, both the petitioner as well as private respondent belong to Lumberdar Mohalla of village Ehtishampora. Thus the Enquiry Officer has, on the basis that the petitioner as well as private respondent belong to Lumberdar Mohalla, observed that the selection has wrongly been made. Even the District Program Officer, Baramulla, has observed that there are no geographical boundaries separating the houses of Shaheena Bano and Rukhsana Begum, which means that both of them belong to the same Mohalla which i.e. Lumberdar Mohalla. The contention of the petitioner that she was not associated with the enquiry and that she was not permitted to make her submissions, is belied from the contents of the impugned enquiry report.

14) To controvert the findings of the Enquiry Officer, the petitioner has placed on record the reports of Sarpanch, Panchayat Member and Lumberdar of Ehtishampora, according to which the petitioner is residing is shown to be residing in Lumberdar Mohalla. This position is not in dispute. However, these reports nowhere provide that the private respondent is not a resident of Lumberdar Mohalla. In the absence of any material to contradict the enquiry report of the Additional Deputy Commissioner, Baramulla, it can safely be stated that the petitioner and the private respondent No.5 were residing in the same Mohalla, i.e. Lumberdar Mohalla. Once it is an admitted position that the private respondent No.5 is a matriculate and, as such, more meritorious than the petitioner, who is only eighth pass, the engagement of the petitioner as Anganwadi Worker for Anganwadi Center Lumberdar Mohalla is not sustainable in law.

15) It has been contended by learned counsel for the petitioner that during pendency of the writ petition, respondent No.5 has entered into wedlock and she is now residing in a different village, therefore, in terms of the conditions of the engagement, she is no longer eligible to be engaged as Anganwadi Worker in Anganwadi Center Lumberdar Mohalla. This position is, however, not admitted

by the respondents. Therefore, this aspect of the matter has to be enquired into by the official respondents and a decision thereon has to be taken by the said respondents in accordance with the rules governing the field.

16) It has also been contended by learned counsel for the petitioner that the petitioner has been discharging her functions as Anganwadi Worker since the date of her engagement in the year 2010, on the strength of the interim order passed by this Court, therefore, the equity tilts heavily in her favour and at this stage if she is disengaged, it will work very harshly against her.

17) It is true that on the strength of the interim order passed by this Court, the petitioner has been discharging her functions as Anganwadi Worker for the last more than fifteen years, but it has to be noted that her basic engagement is not in accordance with law. The private respondent, being a matriculate and belonging to the habitation in which the Anganwadi Centre is located, had the first right to engagement as Anganwadi Worker. Hence the engagement of the petitioner, who is only 8th pass, is illegal being contrary to the norms. Continuing in service under a Court order does not create legal equity if the basic appointment is declared illegal. Therefore, the contention of the petitioner is without any substance.

18) For what has been discussed hereinbefore, the writ petition lacks merit and is dismissed accordingly. The respondents are directed to take further follow-up action in the matter in accordance with the applicable rules/norms.

19) The record be returned to learned counsel for the official respondents.

**(Sanjay Dhar)
Judge**

SRINAGAR

07.08.2026

“Bhat Altaf-Secretary”

Whether the **judgment** is reportable: **YES/NO**

