

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

Reserved on: 07.05.2026

Pronounced on: 15.05.2026

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

**SWP No.2301/2014
c/w
CCP(S) No.271/2022**

DR. FAROOQ AHMAD SHEIKH ...PETITIONER(S)/APPELLANT

Through: - Mr. Arshid Ahmad, Advocate.

Vs.

STATE OF J&K AND OTHERS ...RESPONDENT(S)

Through: - Mr. Faheem Nissar Shah, GA.

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

JUDGMENT

1) Through the medium of present petition, the petitioner has challenged selection list issued by the official respondents vide No.DCA/NRHM/13/3912-19 dated 09.11.2013. Challenge has also been thrown to appointment of private respondents made pursuant to the aforesaid selection list. The petitioner has further sought a direction upon the official respondents to appoint him as Medical Officer (Ayush) under NRHM scheme in District Anantnag.

2) As per case of the petitioner, respondents No.2 and 3 issued Advertisement Notice bearing No.CMO/DRHS/
SWP No.2301/2014

NRHM/1329-36 dated 19.10.2013, whereby applications were invited for making selection/appointment against the post of Medical Officer (Ayush) on block level basis in District Anantnag. The petitioner is stated to have participated in the selection process and he also appeared in the interview held on 31.10.2013.

3) Vide No.DCA/NRHM/13/3912-19 dated 09.11.2013, the impugned provisional select list was issued by the official respondents, in which the private respondents have been selected on District Level/Tehsil Level Merit basis.

4) The petitioner has challenged the impugned select list on the grounds that the same is illegal and bad in the eyes of law being violative of relevant provisions of law. It has been contended that as per the National Rural Health Mission Scheme, the selections/appointments were to be made on block level basis and there is no provision for making selection on Tehsil/District level merit basis but, in the instant case, the official respondents have made selection on Tehsil/District level merit basis. It has been further contended that the impugned select list has been issued by the official respondents for extraneous considerations with *mala fide* intentions by adopting a policy of pick and choose. It has been contended that the private respondents have lesser merit than that of the

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petitioner and that the impugned select list has been issued in blatant violation of terms and conditions of the Advertisement Notice and the scheme.

5) According to the petitioner, respondent No.4 is the resident of Khanabal but he has been selected in Medical Block, Verinag, respondent No.5 is the resident of Khanabal but he has been selected in Shangus Block, respondent No.6 is the resident of Monghall but he has been selected in Shangus Block, respondent No.7 is the resident of Laizbal but he has been selected in Block Sallar, respondent No.8 is the resident of Check Srangsoo but he has been selected in Block Sallar, respondent No.9 is the resident of Zadipora but has been selected in Larnoo Block, respondent No.10 is the resident of Peer Mohalla Dialgam but has been selected in Larnoo Block whereas respondent No.11 is the resident of Brinty Batapora but he has been selected in Larnoo Block. Thus, the impugned select list issued by the official respondents is liable to be set aside.

6) Respondent No.3, in his reply to the writ petition, has submitted that the petitioner has failed to make the grade for selection in his own Medical Block Achabal where two male candidates, namely, Atif Sidiq and Fareed Ahmad Wani stand selected and engaged as Medical Officer (Ayush) strictly as per norms and guidelines of NRHM scheme. It

has been contended that the selected candidates in the said Block secured 73.20 points and 72.56 points out of 100 points whereas the petitioner obtained only 60.81 points out of 100. It has been submitted that as per the guidelines stipulated under J&K Rural Health Mission, preference for selection is to be given to the eligible candidates from the concerned Medical Block subject to their merit. In case of non-availability of the candidates from the concerned block, the candidate from Tehsil has to be given preference. Similarly, if the candidate is not available within Tehsil, the candidate from within District has to be given preference as per norms/guidelines of the J&K NRHM.

7) Respondent No.3 has explained that as per permissibility and guidelines of the J&K State Health Society, for every Medical Block, District Rural Health Society, Anantnag, hired two male and two female Medical Officers (Ayush). The petitioner hails from Village Sahibabad which falls in Achabal Medical Block and in the said Block, Atif Sidiq and Fareed Ahmad Wani, who had secured superior merit to that of the petitioner, were selected. Respondent No.3 has given details relating to merit of Medical Block where male Ayush Medical Officers have been selected on Tehsil/District level in terms of the

impugned select list dated 09.11.2013. The same are reproduced as under:

S.No.	Name with parentage	Address/Block	Merit out of 100 points	Remarks
1.	Prince Ahmad Mir S/o Gull Mohammad Mir	Dhamal/Medical Block Achabal	63.67	Selected from Tehsil merit for Block Larnoo
2.	Bilal Ahmad Dar S/o Ab. Majeed Dar	Khanabal/Medical Block Achabal	68.61	Selected from District merit for Block Verinag
3.	Zubair Shafi S/o Mohammad Shafi Din	Khanabal/Medical Block Achabal	67.06	Selected from District merit for Block Shangus
4.	Arshid Hussain S/o Gh. Mohidin Shah	Monghal/Medical Block Achabal	66.50	Selected from District merit for Block Shangus
5.	Javaid Ahmad Kuthro S/o Gh. Ahmad Kuthro	Zadipora/Medical Block Achabal	66.50	Selected from District merit for Block Larnoo
6.	Gowhar Gull D/o Late G. M. Ganie	Bakshiabad/Medical Block Achabal	65.39	Selected from District merit for Block Verinag

8) Respondent No.2, Deputy Commissioner, Anantnag, has also filed his reply affidavit, wherein it has been submitted that as per the guidelines stipulated under J&K National Rural Health Mission, preference for selection is required to be given to the eligible candidates from the concerned Medical Block subject to their merit and in case of non-availability of the candidates from the concerned block, the candidate from the Tehsil has to be given preference. Similarly, if the candidate is not available within the Tehsil, a candidate from the district has to be considered. It has been submitted that the petitioner belongs to Village Sahibabad which falls within Achabal

Medical Block and he had secured only 62.81 points out of 100 as against 73.20 points secured by selected candidate Atif Sidiq and 72.56 points secured by selected candidate Fareed Ahmad Wani. Thus, according to respondent No.2 also, the petitioner having secured inferior merit, as such, he was not found fit for selection. The Deputy Commissioner has also given the details of merit of the selected candidates who were selected on Tehsil-wise/District-wise merit basis.

9) It appears that because there was discrepancy in the affidavits filed by respondents No.2 and 3 as regards the points secured by the petitioner in the selection process, inasmuch as, as per the affidavit of respondent No.3, he had secured 60.81 points whereas, as per the affidavit filed by respondent No.2, he had secured 62.81 points, a direction was issued by this Court for production of original selection record on 05.10.2017. It seems that the official respondents could not produce the original record and instead they chose to file the attested selection record. In this behalf an affidavit came to be filed by respondent No.3- Chief Medical Officer, Anantnag, pursuant to the direction dated 20.07.2022 passed by this Court. In the said affidavit, it has been submitted that the original selection record was handed over to Additional Advocate General,

High Court, on 8th August, 2017, against a proper receipt for its production before the Court but the concerned Advocate has neither handed over the same to the Court nor has he returned the same to the official respondents. A photocopy of the receipt executed by the then Additional Advocate General, Shri Mohammad Iqbal Dar, has been annexed with the affidavit. In the same affidavit, respondent No.3 has clarified that the petitioner had secured 62.81 points and not 60.81 points out of 100 points.

10) The private respondents have also filed their reply to the writ petition in which they have defended the impugned select list and have submitted that their selection is based upon merit and not any other consideration

11) I have heard learned counsel for the parties and perused record of the case.

12) The primary ground that has been urged by the petitioner for challenging the impugned select list is that the official respondents were obliged to make selection on the basis of merit of the candidates of the concerned Medical Block and it was not open to them to make selection on the basis of Tehsil-wise/District-wise merit of the candidates.

13) If we have a look at the Advertisement Notice dated 19.11.2013, it provides that selection of Medical Officer (Ayush) has to be made at Block level i.e., Medical Block basis. As per condition No.1 of the said Advertisement Notice, the selection has to be made on local criteria that District shall be considered for District level posts and Medical Block shall considered for Medical Block level posts and Revenue Village shall be considered for village level posts.

14) The selection of Medical Officer (Ayush) was to be made at block level. The petitioner, admittedly, belongs to Achabal Medical Block. In the said Block, four candidates have been selected. Out of these four candidates, two are female and two are male candidates. A perusal of the merit list would reveal that all the four candidates have secured higher merit in the selection process than that of the petitioner. While two male candidates, namely, Atif Sidiq and Fareed Ahmad Wani have secured 73.20 and 72.56 points, the two female candidates, namely, Syed Shubreena Nisar and Asifa Syed have secured 71.51 and 70.48 points respectively. The petitioner has secured only 62.81 points. Therefore, his merit is inferior to that of the selected candidates

15) So far as contention of the petitioner that the private respondents have been selected on the basis of Tehsil-wise/District-wise merit, is concerned, in this regard it has been explained by respondents No.2 and 3 in their respective affidavits that as per the guidelines of J&K State Health Society, in case of non-availability of the candidates from a particular Medical Block, the candidates from Tehsil/District have to be considered as per their merit.

16) If we have a look at the select list, the official respondents have selected Medical Officers (Ayush) in Medical Blocks Achabal, Bijbehara, Muttan, Verinag, Shangus, Sallar and Larnoo. In each Medical Block, they have selected two male and two female candidates. The select list would go on to show that none of the male candidates selected in all these Blocks has secured less merit than that of the petitioner. Thus, even if the candidature of the petitioner would have been considered at Tehsil/District level, he would not have made the grade. So far as his local Medical Block is concerned, in that, he figures far inferior in merit to that of two selected male candidates. The grievance of the petitioner is, therefore, wholly misconceived.

17) During the course of arguments, learned counsel for the petitioner has laid much stress on the fact that there is

discrepancy in the merit list prepared by the official respondents and that the same becomes doubtful as the respondents have not been able to produce original selection record. In this regard, as already stated, the Chief Medical Officer concerned has filed an affidavit indicating therein that the original record was handed over to the then Additional Advocate General who failed to produce the same before the Court or to return it to the official respondents. There is no reason to disbelieve the said officer, particularly when the affidavit is accompanied by the receipt purported to have been executed by the concerned Advocate.

18) It has been further contended that attested photocopy of the merit list would indicate that the same has been prepared on 9th November, 2013, whereas the interview of the candidates was held on 31.10.2013, which creates a suspicion about the preparation of the merit list. This contention of learned counsel for the petitioner is also without any substance because the select list has been prepared by the Committee which has conducted the interview. The select list has been approved by the competent authority on 09.11.2013. This does not mean that the Committee has prepared the list on 09.11.2013. Thus, it is not a case where the select list has been prepared

on 09.11.2013, as has been sought to be projected by learned counsel for the petitioner.

19) For what has been discussed hereinbefore, I do not find any merit in this petition. The same is dismissed accordingly. Interim direction, if any, shall stand vacated.

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

CCP(S) No.271/2022:

In view of the decision in the main writ petition, the order out of which instant contempt petition has arisen, has merged in the final judgment. Therefore, nothing further survives for consideration in this contempt petition. The same is, accordingly, disposed of.

(Sanjay Dhar)
Judge

SRINAGAR

15.05.2026

“Bhat Altaf-Secretary”

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