

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

**SWP 2289/2013 CM(2157/2021)**  
**CM(920/2021).**

**DR. AIJAZ-UL-HAQ SHAH.**

**...Petitioner/Appellant(s)**

Through: Mr. Bhat Fayaz, Adv with  
Ms. Nighat Amin, Adv.

**VERSUS**

**STATE OF JK AND OTHERS. (HEALTH DEPTT).**

Through: Ms. Rahila Khan, Assisting Counsel vice  
Mr. Faheem Shah, GA.

**...Respondent(s)**

**CORAM:**

**HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

**ORDER(ORAL)**

**24.09.2026**

1. Before addressing the core issues raised in this writ petition, it is relevant to note that the petition was originally filed in 2013 and subsequently amended in 2015. At the time of filing, the petitioner was 43 years old; he is now approximately 55 years of age.
2. The petitioner has filed this petition for issuance of a writ for quashing the select list issued by the official respondents for the posts of Male Medical Officers AYUSH under RBSK (NRHM) in Blocks Gurez and Bandipora; and further for a direction to the official respondents to select and appoint the petitioner in accordance with merit and eligibility as Male Medical Officer AYUSH under RBSK (NRHM) for Block Bandipora, Gurez or Hajin.
3. It is submitted that respondent No. 5, hailing from Block Hajin, was ineligible for Block Gurez and respondent No. 6 secured lower merit than the petitioner; thus, neither respondent No. 5 nor respondent No. 6 could

have been selected for Block Gurez. It is further contended that when interviews were conducted on 05.11.2013, the Deputy Commissioner, who chaired the District Health Society, was on tour, rendering the merit list prepared by the official respondents a complete farce. Additionally, respondent Nos. 5 to 6 secured less than 45% marks in their 10+2 examination, making them ineligible for the BUMS course, which mandated a minimum of 50% marks. It is also urged that upon the death of selected candidate Shabir Ahmad Malik (private respondent No. 5), the official respondents ought to have considered the petitioner for the resulting vacancy. Lastly, the petitioner asserts that despite performing remarkably well in the interview, he was excluded from the selection list due to extraneous considerations.

4. Reply stands filed by the official respondents, wherein it is stated that the selection process was based on merit and the mere performance in the interview does not guarantee place in the selection list. The provisional selection list was issued based on the basis of performance and merits of the candidates. It is further stated that the respondents followed the local preference criteria. Residence at the place of posting has been considered mandatory and the selection of private respondent No. 5 was in line with the prescribed criteria. Precisely, the stand of the respondents is that the selection of private respondents Nos. 5 and 6 was carried out strictly in accordance with the scheme and guidelines and further the proximity of the petitioner's Block does not automatically entitle him to preference in the selection process.

5. Supplementary affidavit dated 09-09-2024 also came to be filed by the Chief Medical Officer, Bandipora, stating therein that the selection list of the Medical Officers was based on merit comprising of points awarded in the academics and performance in the interview. The provisional selection list was issued and the respondents No. 5 and 6 were provisionally selected for Block Gurez due to higher merit in the respective Medical Blocks (Medical Block Bandipora and Medical Block Hajan). Further, the petitioner was not selected due to low merit. The merit of respondents No. 5 and 6 was 66.20 and 62.92, respectively, whereas the merit of the petitioner was only 56.91 (Academic+Interview). It is further submitted that the District Development Commissioner, Bandipora, exercising his powers, nominated an ex-officio member to conduct the interview for the Medical Officers to ensure their timely completion. It is further stated that private respondent No. 5 passed away on 28.07.2020 while in service. Thereafter, the petitioner approached the office of the Chief Medical Officer (Vice-Chairman, DHS), Bandipora, along with a court order, requesting appointment against the vacancy caused by the death of Shabir Ahmad Malik. However, it is maintained that filling a post on account of a selected candidate's death, especially after a lapse of four years, is unlawful and contrary to NHM norms. Furthermore, by way of a communication in 2017–18, the State Health Society, NHM J&K, mandated that the selection and engagement of all Specialists, Medical Officers, Dental Surgeons, Programme Management Units, ASHA Coordinators, and DEIC Managers shall be conducted exclusively by the State Health Society, thereby divesting the District Health Societies of their powers to hire for the aforementioned posts.

**6. Heard and perused the record.**

7. The record depicts that 12 posts (6 Male and 6 Female) of Medical Officers (AYUSH) were advertised vide Notice No. DIPK-8866 of 2013, with 4 posts allocated to each block. In response to the advertisement, 32 candidates applied. Notably, no candidate from Medical Block, Gurez, submitted an application. Under the selection criteria, 80 points were earmarked for basic qualification (BUMS/BAMS or equivalent) and 20 points for viva-voce. In the event a screening test was conducted, the weightage was restructured to 40 points for the screening test, 40 points for graduation, and 20 points for viva-voce. The selection list of the Medical Officers was prepared on the basis of points awarded in academic and the performance in interview and the provisional selection list was issued on 20-11-2013. The respondents No. 5 and 6 were provisionally selected for Block Gurez due to higher merit in their respective Medical Blocks (Medical Block, Bandipora and Medical Block Hajan).
8. The first contention raised by the petitioner is that he possessed higher merit than private respondent No. 6, and that respondent No. 5, being a resident of Block Hajin, was ineligible for Block Gurez.
9. In their supplementary affidavit, the official respondents have categorically stated that the petitioner ranked lower in merit than private respondent Nos. 5 and 6 and was, therefore, not selected for the aforementioned block. Furthermore, the petitioner admittedly does not reside in Block Gurez, the post for which private respondent No. 5 was selected, and in fact, both petitioner and private respondent No. 5 hailed from outside Block Gurez.

Consequently, this contention of the petitioner is devoid of merit and stands rejected.

10. Secondly, the petitioner contended that the selected candidates were ineligible as they failed to secure the mandatory 45% marks in 10+2 required for entry into BAMS/BUMS programs. This submission is equally without any merit. The eligibility criteria specified in the advertisement notice required a Bachelor's Degree in BAMS/BUMS or equivalent from a recognized Central Council of Indian Medicine/CCH institution, registered with the relevant J&K State Board. Since the petitioner does not dispute that the selected candidates possess the requisite degrees from recognized institutions as mandated by the advertisement, this contention fails and is rejected.

11. Thirdly, the petitioner contends that the selection list is invalid because the Chairman of the Society was on tour when interviews were conducted on 05.11.2013. In response, the official respondents submitted that the Chairman, in exercise of his powers, had nominated an ex-officio member, the ADMO, AYUSH Department, to conduct the interviews. Notably, the petitioner participated in the selection process without demur and raised this objection only after failing to secure a place in the select list. Had he been selected, no such grievance would have been voiced by the petitioner. It is a settled principle of law that a candidate, who voluntarily takes part in an interview process, cannot, upon being declared unsuccessful, turn around and challenge the composition of the selection committee. Consequently, this plea is also rejected.

12.Lastly, the petitioner contended that following the death of private respondent No. 5, the official respondents were obligated to appoint him to the vacant post. In response, the official respondents submitted that Mr. Shabir Ahmad Malik passed away due to COVID-19 on 28.07.2020 while on duty, and that filling the post with the petitioner after such a lapse of time would violate NHM guidelines. Furthermore, following policy directives issued during 2017–18, selection powers vest exclusively with the State Health Society, NHM J&K, leaving District Health Societies with no authority to hire Medical Officers.The reasons assigned by the official respondents for declining the petitioner’s request for appointment against the vacancy arising from the demise of private respondent No. 5 cannot be faulted. This ground raised by the petitioner is likewise devoid of merit and stands rejected.

13.For all what has been said and discussed above, this Court finds that this petition lacks merit and does not warrant indulgence of this Court. Accordingly, the same is **dismissed**.

**(Rajesh Oswal)**  
**Judge**

**SRINAGAR**  
**24.09.2026**  
*Sarvar*