

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

SWP 2394/2018

Hakeem Muzafar Khaliq
S/O: Abdul Khaliq Hajam,
R/O: Chandain Pajan, Tehsil Devsar, District
Kulgam.
Through: Mr. Arif Sikander Mir, Advocate

...Petitioner/Appellant(s)

Vs.

- 1. Commissioner/Secretary Government School
Education Department, Civil Secretariat
Srinagar/Jammu.**
- 2. Commissioner/Secretary Government Revenue
Department Civil Secretariat, Srinagar/Jammu.**
- 3. Director School Education, Kashmir.**
- 4. Deputy Commissioner, Kulgam.**
- 5. Tehsildar, Dooru.**
- 6. Tehsildar, Kulgam.**
- 7. Principal Government Higher Secondary
School.**

...Respondent(s)

Through: Mr. Hakim Aman Ali, Dy. AG

CORAM:

**HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
ORDE R(ORAL)**

17.04.2026

1. In this petition, the petitioner has, *inter alia*, sought issuance of a Writ of Certiorari for quashing the communication of the Principal, Boys Higher Secondary School, Kulgam, in his capacity as District Vigilance Officer bearing No. GBHSSK/1937/17 dated 10th October, 2017, addressed to the Chief Education Officer, Kulgam, whereby disciplinary action against the petitioner for misconduct has been recommended.

2. The disciplinary action has been recommended by the Principal, Boys Higher Secondary School, Kulgam, primarily for the reason that the petitioner had obtained a Social Caste certificate from the Competent Revenue Authority by misrepresentation, inasmuch as he had disclosed his

annual income as less than 4.5 lacs, whereas the combined income of the petitioner and his father was exceeding that limit.

3. The impugned communication, which has put the petitioner under threat of disciplinary action, has been assailed by the petitioner on multiple grounds. However, before this Court adverts to the grounds of challenge urged by Mr. Arif Sikander Mir, learned counsel for the petitioner, it would be appropriate to take note of a few relevant facts.

4. The petitioner belongs to the “Hajam” caste, which falls within the Socially and Educationally Backward classes under the Jammu & Kashmir Reservation Act, 2004 and the rules framed thereunder. The petitioner was granted a Social Caste certificate by the Competent Revenue Authority on 18th August, 2006, which was to remain valid for a period of five years from the date of issue. The validity of the said certificate expired on 18th August, 2011. The petitioner had, in the meanwhile, been appointed as a Teacher in the School Education Department vide Order No. 559-DSEK of 2009 dated 18th June, 2009. His appointment as a Teacher was, however, in the Open Merit (OM) category.

5. It appears that having regard to his qualification and the status of the Social Caste category claimed by the petitioner, he was made incharge Lecturer in terms of Government Order No. 414-EDU of 2013 dated 30th March, 2013. Although the petitioner got the benefit of incharge promotion on the basis of OSC category status yet the fact remains that on 30th March, 2013, when the order was passed by the Government, he was not in possession of a valid OSC category certificate, which certificate was issued to him on 5th April, 2013. It also needs to be noticed that the petitioner was in possession of a valid OSC category certificate on the date

his particulars were submitted by the Principal, Government Boys Higher Secondary School, Keelam, Kulgam vide communication dated 10th June, 2011.

6. Be that as it may, the fresh certificate issued by the Tehsildar Kulgam dated 5th April, 2013, was disputed by one Gh. Mohammad Wagay who brought his grievance by way of a complaint before the CM's Grievance Cell. The complaint of the complainant was twofold; one that on the date he was made incharge Lecturer, the petitioner was not in possession of a valid category certificate, which was issued to him after five days of his incharge promotion and two that the petitioner had suppressed his income, which was exceeding the income bar of Rs. 4.5 lacs.

7. It appears that the Principal, Boys Higher Secondary School, Kulgam who is ex-officio District Vigilance Officer conducted an ex parte inquiry and made recommendation to the Chief Education Officer, Kulgam for appropriate disciplinary action under Rules.

8. It is also not in dispute that acting upon the aforesaid complaint, the Additional Deputy Commissioner, Kulgam cancelled the OSC certificate issued in favour of the petitioner on 5th April, 2013. The cancellation order, upon challenge by the petitioner before this Court in OWP No. 2276/2018, was set aside and quashed. There is also no dispute with regard to the fact that during the pendency of the litigation before this Court, the petitioner was confirmed as Lecturer in the discipline of Biotechnology in the School Education Department.

9. The complaint which became the basis of the impugned communication has thus been found not tenable on facts and law.

However, this petition which was filed at a time when the petitioner was apprehending disciplinary action still remains on the board of this Court.

10. Having heard learned counsel for the parties and perused the material on record, this Court is of the considered opinion that in view of the later developments which this Court has narrated hereinabove the impugned communication has become toothless, if not wholly redundant,. The very basis of initiating disciplinary action has been knocked down by this Court in order dated 22nd November, 2023 passed in OWP No. 2276/2018 interpreting Rule 22 of the Jammu & Kashmir Reservation Rules, 2005. The Bench of this Court has held that the annual income of parents/guardians from all sources can be taken into account only if the twin conditions are satisfied:-

- (i) Whether the person claiming the certificate is living with her parents/guardians or not.
- (ii) Whether the said person is dependent upon them.

11. In the instant case, the petitioner was serving as a teacher in the School Education Department and, therefore, could not be said to have been dependent upon his parents/guardians. In such situation, the income of the petitioner from all sources including the income of the spouse, if any, alone was to be taken into consideration for the purpose of determining his eligibility to claim the issuance of Social Caste certificate.

12. In view of the aforesaid judgment earned by the petitioner, the issue as to whether the petitioner had misrepresented before the Competent Revenue Authority for issuance of OSC certificate does not survive any further adjudication. Once the certificate of the petitioner is held to be

act or omission which could be termed as misrepresentation or impersonation. Even the allegation that he had managed his incharge Lecturer under OSC though he did not possess that certificate on 30th March, 2013, is also without any substance. The incharge promotion was made by the Government on the basis of the particulars submitted by the concerned Principal and when such particulars in prescribed format of the petitioner were supplied by the concerned Principal, indisputably the OSC certificate issued in his favour on 18th August, 2006 was valid.

13. Viewed from any angle, the communication impugned cannot sustain and cannot be made the basis for any disciplinary action.

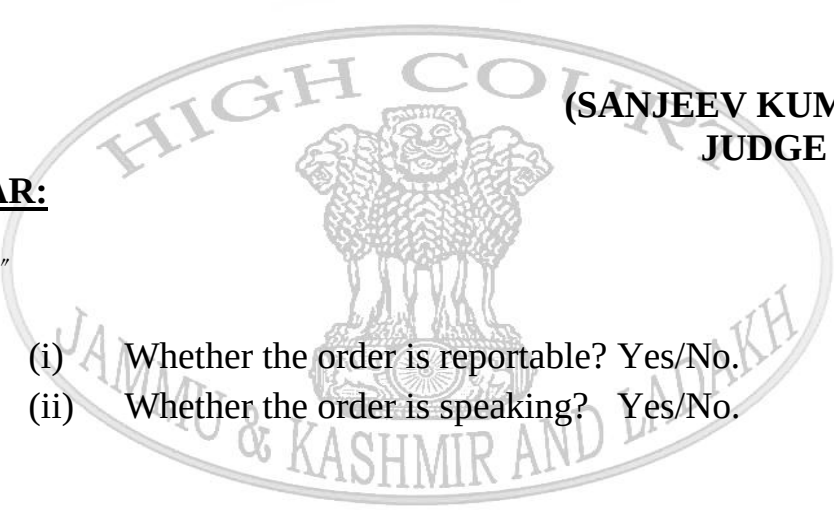
14. For all these reasons, the petition is allowed and the impugned communication is quashed.

SRINAGAR:

17.04.2026

"MIR ARIF"

(SANJEEV KUMAR)
JUDGE

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- (i) Whether the order is reportable? Yes/No.
(ii) Whether the order is speaking? Yes/No.