

Serial No. 19.
Regular list

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

SWP 2920/2018

MOHAMMAD HUSSAIN KHAN AND ORS.

..... Appellant/petitioner(s)

Through: -
Mr. I. Sofi, Advocate

V/s

**STATE OF J AND K AND ORS.
(EDUCATION DEPARTMENT)**

..... Respondent(s)

Through: -
Mr. T. A. Lone, AAG

CORAM:

HON'BLE MR JUSTICE RAJESH SEKHRI, JUDGE

(ORDER)

01.09.2026

CM No. 5328/2026

01. For the reasons stated in the application, coupled with submissions made at Bar by learned counsel for the petitioners, it is allowed and learned counsel for petitioners is allowed to make table amendment in the title of the petition by rectifying name of the petitioner No. 4, as Zakir Hussain Lone instead of Zubair Hussain Lone in the presence of learned Registrar Judicial.
02. CM disposed of.

SWP No. 2920/2028

01. The case set out by the petitioners is that Government of Jammu and Kashmir in the year 2000, conceived a scheme for the participation of

local people in the management of education at the gross root level with the object to make up the deficiency of the staff at the elementary level of education and to achieve the object to draw human resources from the local community and utilize their services by appointing them as teaching guide as a catalyst, for quality education and over all development of personality of the children. Accordingly, the Government vide Government order No. 396-Edu of 2000 dated 28.04.2000, accorded sanction to launch the scheme of Rehbar-e-Taleem (ReT) with the following objectives: -

- “ i. *promoting the decentralized management of elementary education with the community participation and involvement,*
- ii *to ensure accountability and responsiveness through a strong back up and supervision through the community, and*
- iii. *to operationalize effectively the school system at the gross root level.”*

02. Subsequently, in 2003, according to the petitioners, the Government vide Government order No. 1670-Edu of 2003 dated 24.11.2003, stopped the process of filling up of vacancies of Teachers in schools through ReT scheme and it was substituted by another scheme called Sarva Shiksha Abheyan Scheme, launched by the Union of India, with the purpose to universalize elementary education by community-ownership of the school system all over the country in a mission mode. This scheme, according to the petitioners, came to be implemented by the then State of J&K vide Government order No. 1368-Edu of 2002 dated 15.11.2002 and it provided that teaching guide is to be filled up on the pattern of ReT Scheme. As a consequence, sanction came to be accorded for opening of primary school/up-gradation of primary schools, subject to the approval of the competent authority, as per the sanctioned plan.

03. According to the petitioners, the Government later in terms of Government order No. 549-Edu of 2005 dated 22.08.2005, also provided as to how the services of ReT were to be regularized after completion of five years satisfaction service.
04. Subsequently, the Government vide Government order No. 635-Edu of 2010 dated 04.08.2010, decided to fill up regular vacancies of teachers in far flung areas on the pattern of ReT Scheme in socially and educationally backward areas and in continuation thereof the Government issued Government order No. 522-Edu of 2013 dated 06.05.2013. The petitioners, in response to various advertisement notices issued by the Government from time to time applied for their engagements as ReT teachers in their respective revenue villages.
05. However, the Government vide order No. 919-Edu of 2018 dated 16.11.2018, accorded sanction to the formal closure of the ReT Scheme.
06. Petitioners being aggrieved of the aforesaid order dated 16.11.2018, passed by the Government, whereby, ReT scheme came to be closed, have invoked writ jurisdiction of this Court, primarily for the issuance of a writ of certiorari for the quashment of the aforesaid order dated 16.11.2018 and consequent mandamus to the respondents to finalize the selection process relating to the petitioners and their appointment against the post for which they had applied in response to the advertisement notices issued by them from time to time.
07. Hon'ble Supreme Court in *UT of J&K and Ors. Vs. Saba Wani* and connected matters; 2026 INSC 439 held that cancellation/withdrawal of RET scheme shall not retrospectively impair the rights of the

candidates found placed in the select panel and passed following

directions: -

“ i. 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 panel shall be issued engagement/ appointment orders as per their position in the select panel having regard to the available vacancies.

ii. 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.

iii. Candidates appointed as per directions (a) and (b) from the select panel under 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.

iv. 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).

v. 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 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.

vi. 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 respect to seniority or regularization as directed hereinabove.

vii. 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.

viii. 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.

ix. 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.

x. 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.”

08. Reply stands filed on behalf of the respondents. It is contention of the respondents that the law declared by Hon'ble Supreme Court in Saba Wani (supra) constitutes a binding precedent under Article 141 of the Constitution of India, therefore, order dated 16.11.2018, whereby, ReT Scheme came to be closed is no longer open to challenge. According to the respondents, the claim of the petitioners, if any, is required to be examined only within the parameters laid down by Hon'ble Supreme Court in **Saba Wani** and in accordance with applicable statutory provisions, Government orders and the rules governing the field.
09. Mr. I. Sofi, learned counsel for the petitioners in the circumstances of the case, has fairly submitted that respondents be directed to consider the claim of petitioners in the light of law declared by Hon'ble Supreme Court in **Saba Wani**.
10. Having regard to the aforesaid, present petition is disposed of with a direction to the respondents to consider the claim of petitioners, strictly in terms of the law laid down by Hon'ble Supreme Court in '*UT of J&K and Ors. Vs. Saba Wani*' and the applicable rules, within a period of eight weeks from the date copy of this order is made available.
11. Disposed of along with all connected CM(s).

(RAJESH SEKHRI)
JUDGE

SRINAGAR
01.09.2026
"Mohammad Yaseen Dar"