



Sr.No. 71

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

SWP No. 2533/2016
IA No. 1/2016
CM No. 6850/2019

*Reserved on: 18.08.2026
Pronounced on: 01.09.2026
Uploaded on: 02.09.2026
Whether the operative part or full
judgment is pronounced: **Full***

**Kavita Devi, age 32 years D/o Lt. Satpal
R/o Village Thangriot, Tehsil Suranderbani
District Rajouri.**

.....Petitioner(s)

Through: Mr. Ashok Sharma, Advocate

vs

1. State of J&K through Commissioner/Secretary to Government, Education Department, Civil Secretariat, Jammu.
2. Director School Education, Jammu.
3. Chief Education Officer, Rajouri.
4. Zonal Education Officer, Lower Hathal, Thangriot, Sunderbani.
5. Secretary Project Director SSA, J&K at Jammu
6. Chief Information Commissioner, J&K at Jammu.
7. State Vigilance Organization, through Chief Vigilance Commissioner, J&K at Jammu.
8. State Board of School Education, J&K through its Secretary, Rehari Jammu.
9. Amit Kumar age, 32 years S/o Krishan Lal R/o Village Thangriot, Tehsil Sunderbani District Rajouri

....Respondent(s)

Through: Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Assisting Counsel

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT

PRAYER

1. The petitioner through the medium of instant petition has sought the following reliefs:



- a) Writ of Certiorari quashing the Order No. DSEJ/RET/4811-17 of respondent no. 4 dated 29.06.2004 By virtue of which the private respondent no. 9 was engaged as RET teacher in Government Middle School, Thangriot Zone Lower Hathal, Tehsil Sunderbani, District Rajouri.
- b) Writ of Mandamus directing the official respondents no 1 to 4 to consider the petitioner against the post of RET middle school Thangriot Zone Lower Hathal, Tehsil Sunderbani, District Rajouri.
- c) Writ of Mandamus directing the official respondent no. 6 to supply the information sought under RTI Act and to take appropriate penal action under the Right to Information Act and the rules made there under against all the Public Information Officers and Appellate Authorities who did not act in accordance with the law.
- d) Writ of Mandamus Directing respondents no. 1 and 7 to hold inquiry and take appropriate legal action against the respondent no. 2 to 5 into the whole actions of the said respondents with regard to their act of criminal conspiracy by taking gratification from the private respondent and managing illegal engagement order of the private respondent no. 9 as RET teacher in GMS Thangriot zone Lower Hathal District Rajouri.
- e) Writ of Mandamus directing the respondent no. 8 to produce the record in original with regards to the marks obtained and the marks increased for 10+2 exams in year 2003 Annual and 2003 Bi-Annual of respondent no. 9.

BRIEF FACTS

2. The facts in brief are that the petitioner passed her matriculation (10th) examination in the year 2000 and Higher Secondary (12th) examination in the year 2002 from J&K Board of School Education. The petitioner has completed her Graduation in the year 2007 from University of Jammu and post graduation in the year 2009 from HMB Garwal University, Uttarakhand. The petitioner has also done B.Ed in the year 2011 from



University of Jammu and M.Ed in year 2014 from Maharishi Dayanand University, Rohtak Haryana.

3. It is submitted that, in response to the advertisement notice issued by respondent No. 2 vide Order No. DSEJ/RET/4811-17 dated 29.06.2004, published in the local daily, inviting applications from eligible candidates for various posts, including the posts of RET Teachers in Upper Primary Middle School Thangriot, Zone Lower Hathal, Tehsil Sunderbani, District Rajouri, the petitioner, being fully qualified and fulfilling all the requisite eligibility criteria, applied for the said post before respondent No. 4 within the prescribed time. Pursuant thereto, a panel for engagement of RET Teachers was prepared, wherein the petitioner was placed at Serial No. 3 against the three advertised posts, whereas the private respondent was placed at Serial No. 4, in respect of Upper Primary Middle School Thangriot, Zone Lower Hathal, Tehsil Sunderbani. Thereafter, respondent No. 4 prepared the merit list dated 30.04.2005, wherein the petitioner was again placed at Serial No. 3. The said merit list was finalized after a lapse of more than ten months from the last date prescribed for submission of applications, and, upon such finalization, the only formality remaining was the issuance of the engagement order in favour of the petitioner.
4. It is alleged that respondents No. 3 and 4, in connivance with the private respondent, instead of issuing the engagement order in favour of the petitioner, entertained an application purportedly submitted by the private respondent on 23.09.2004, notwithstanding the fact that the same was submitted after the expiry of the prescribed period for submission of



applications. Respondent No. 3, vide endorsement thereon, directed respondent No. 4 to consider the said application. It is further alleged that, pursuant thereto, verification of the private respondent's marks was obtained from the Joint Secretary (Certificates), respondent No. 5, vide communication dated 18.05.2005, in response to respondent No. 4's letter dated 02.05.2005. The verification reflected that the private respondent had secured 292 marks in the Bi-annual Examination, 2003, without disclosing the date of examination or result. It is contended that, if such marks were available in 2003, there was no explanation as to why the same were neither disclosed nor relied upon when applications were invited in 2004. According to the petitioner, the subsequent production and verification of the said marks were intended to facilitate the illegal engagement of the private respondent.

5. It is further the case of the petitioner that, instead of issuing the engagement order in her favour, respondents No. 2 to 4 engaged the private respondent as RET Teacher vide order dated 03.08.2005. Despite repeated oral and written representations, the grievance of the petitioner was not considered. The petitioner thereafter sought information under the RTI Act through applications dated 14.10.2013, 03.01.2014 and 17.05.2016, but was furnished incomplete and illegible information, particularly with regard to the documents of the private respondent. Respondent No. 4, vide letter dated 07.11.2015, also admitted that incomplete information had been supplied. The petitioner, having failed to



obtain the requisite information, preferred an appeal before the competent authority under the RTI Act, but no effective action was taken.

6. It is further the case of the petitioner that, being compelled to pursue the matter from one authority to another, she preferred a second appeal before the Chief Information Commissioner vide representation dated 22.09.2016, pursuant to the deficiency notice dated 11.01.2016. Despite furnishing the documents sought by the concerned authority, the requisite information was not supplied to the petitioner and no effective action was taken. The petitioner also approached the State Vigilance Organization vide representation dated 28.03.2016, with a copy to the State Accountability Commission, but no action was taken on her complaint.
7. It is submitted that the advertisement notice was published on 29.06.2004, prescribing 15 days' time for submission of applications, which expired on 14.07.2004. The petitioner contends that, after the expiry of the prescribed period, no application or additional document could have been entertained. The Village Panel was subsequently prepared and the Merit List was finalized on 30.04.2005, wherein the petitioner was placed at Serial No. 3, above the private respondent at Serial No. 4, against three available posts. In these circumstances, the subsequent consideration of the private respondent's purported application dated 23.09.2004, coupled with the endorsement of respondent No. 3 dated 24.09.2004, as alleged by the petitioner, raises a serious question regarding the legality and genuineness of the process. If the said application and endorsement were genuine and available at the relevant time, there is no explanation as to



why they remained unacted upon for several months, nor why the private respondent did not pursue his claim before the competent authority at the appropriate stage. The subsequent reliance upon the alleged marks of 292 obtained in the Bi-annual Examination, 2003, and their verification in May 2005, as alleged by the petitioner, further casts serious doubt upon the fairness of the selection process. The petitioner, being higher in merit and placed at Serial No. 3 against the three available posts, was entitled to consideration for engagement. The engagement of the private respondent, therefore, is alleged to be the result of manipulation and an arbitrary and fraudulent departure from the prescribed selection process and is liable to be quashed.

LEGAL ANALYSIS

8. Heard learned counsel for the petitioner and perused the record. Also heard Mr. Raman Sharma, learned AAG for the official respondents.
9. During pendency of the aforesaid writ petition, the Hon'ble Apex Court in case titled *"Union Territory of Jammu and Kashmir & Ors. vs Saba Wani"*, 2026 INSC 439 has passed a judgment in which the Hon'ble Apex Court while dealing with the petition preferred by the Union Territory of J&K, has been pleased to issue the following directions:

"25. In view of the matter, we deem it appropriate to issue following directions:

- a) **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 panels shall be issued engagement/appointment orders as per their position in the select panel having regard to the available vacancies.

- b) 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.
- c) Candidates appointed as per directions (a) and (b) from the select panel under the 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.
- d) 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).
- e) 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 above, the seniority of all such candidates/appointees shall be redrawn and determined by 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.
- f) 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 to seniority or regularization as directed respect hereinabove.

- g) 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.
- h) 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.
- i) 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.



j) 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.”

10. Before advertng to the applicability of the aforesaid judgment to the present case, it is necessary to notice the nature of the relief claimed by the petitioner. The petitioner seeks quashing of the engagement of private respondent No. 9 and, as a consequential relief, seeks consideration of her own claim for engagement as a Rehbar-e-Taleem Teacher in Government Middle School, Thangriot, Zone Lower Hathal, Tehsil Sunderbani, District Rajouri.

11. Even assuming, for the sake of argument, that the petitioner were to succeed in establishing any infirmity in the consideration of the private respondent, the same, by itself, cannot result in a direction for her appointment at this stage. The relief sought by the petitioner would necessarily require this Court to reopen the selection process undertaken under the erstwhile ReT Scheme and to unsettle the selection which stood concluded years ago. More importantly, the petitioner does not form part of the prepared select panel in respect whereof any subsisting right of engagement can be recognised in terms of the judgment of the Hon'ble Supreme Court in *Union Territory of Jammu and Kashmir & Ors. v. Saba Wani*. Any direction at this stage for her appointment would, therefore, have the effect of creating a fresh right of appointment under a Scheme which has since been closed.



12. The benefit of the directions issued by the Hon'ble Supreme Court in Saba Wani is confined to candidates who were part of the prepared select panels and whose entitlement to engagement flowed from such panels. At the same time, the Hon'ble Supreme Court has categorically clarified that the judgment shall not be construed as reviving the ReT Scheme for any purpose whatsoever or as creating or conferring any right upon candidates who were not part of a prepared select panel.
13. In the present case, the petitioner cannot claim the benefit of the aforesaid directions merely on the basis of her assertion that she was placed at Serial No. 3 in an earlier village/merit panel. The relief claimed by her is not founded upon an existing and operative right arising from a prepared select panel, but would require this Court, at this stage, to revisit the selection process, examine the legality of the engagement made in favour of private respondent No. 9 and, thereafter, direct consideration of the petitioner's engagement in his place. Such an exercise would clearly travel beyond the limited protection extended by the Hon'ble Supreme Court in Saba Wani and would, in effect, amount to reopening a concluded selection process under the erstwhile ReT Scheme which is not permissible in the light of the rider imposed by the Hon'ble Apex Court in case mentioned supra with particular reference to Clause (i) of para 25 of the operative part of the judgment as the petitioner is admittedly not figuring in the select panel.
14. In view of the above, grant of such relief would have the effect of creating a fresh right of appointment and reopening the engagement process under a



Scheme which stands closed, contrary to the express clarification issued by the Hon'ble Supreme Court in Saba Wani.

Conclusion:

15. Accordingly, in the light of the subsequent development in law and the directions issued by the Hon'ble Supreme Court in Union Territory of Jammu and Kashmir & Ors. v. Saba Wani, the instant petition has been rendered infructuous and the relief of engagement sought by the petitioner cannot be acceded thereto at this stage, as the same will tantamount to reviving the RET Scheme which if be done will be in direct conflict with the directions issued by the Hon'ble Apex Court.
16. The writ petition, therefore, does not survive for consideration and is accordingly ***dismissed***.
17. Consequently, all pending applications, if any, shall also stand disposed of. Interim directions, if any, shall stand vacated.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
01.09.2026
Vijay

Whether the judgment is speaking: Yes/No
Whether the judgment is reportable: Yes/No