

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

SWP No. 2647/2001

Date of Decision:

01.01.2010

Sharda Devi and arn. vs State and others

Coram:

Hon'ble Mr. Justice Gh. Hasnain Massodi, Judge

Whether approved for

Reporting in Press/ Media/Journal : Yes/ No.

Whether approved for

Reporting in Digest/Journal : Yes/ No.

Appearing Counsel:

For Petitioner : Mr. M. K. Bhardwaj, Sr. Advocate with
Mr. Ajay Abrol and Mr. Sachin Sharma

For Respondents : Mrs. Neeru Goswami, Dy.AG.

The State Government vide Govt. order No. 396 of Edu 2000 dated 28.4.2000 accorded sanction to a scheme called Rehbar-e-Taleem Scheme (hereinafter referred to as Scheme) intended to make up the deficiency of staff at the elementary level of education. The objectives of scheme were to promote decentralized management of elementary education with the community participation and involvement, to ensure accountability and responsiveness through community supervision and to operationalize effectively the schooling system at the grass root level. The Scheme provided for services of

teaching guides called Rehbar-e-Taleem with a role for them to act as a catalyst for quality education and to ensure overall development of the personality of the children. The ultimate aim of the Rehbar-e-Taleem Scheme was to secure universal enrolment and to check out the school drop outs. The aforementioned Govt. Order is comprehensive self contained and takes care of all aspects of the Scheme including the role of village level committees, the eligibility for the teaching guides or Rehbar-e-Taleem proposed to be recruited, their mode of selection, the honorarium to be paid to them and their regularization on their satisfactorily completing five years period on honorarium basis.

Zonal Education Officer, Zone Billawar-respondent No. 4 vide notice dated 28.8.2001 invited applications from eligible candidates through respective village level committees for the Rehbar-e-Taleem vacancies available in different primary and middle schools of zone Billawar. The advertisement notice reproduced the eligibility criteria for the advertised vacancies in consonance with the Scheme identified the schools/ villages where vacancies were available and gave the timeframe within which the applications were to be submitted. The annexure to the advertisement notice serialized the schools as also the number of vacancies therein proposed to be filled up.

The petitioners claim to have submitted applications for the engagement as Rehbar-e-Taleem in Middle School Niali and Middle

School Dhamlar respectively. However, the petitioners did not find place in the selection list issued by the respondent No.3. Shri Ranjeet Singh S/o Charan Singh R/o Dhamlar-respondent No.5 herein was selected for Middle School Raper village Dhamlar whereas Bushan Kumar S/o Ishwar Dass also resident of Dhamlar-respondent No.6 herein was selected as Rehbar-e-Taleem for Middle School Niali. The petitioners, aggrieved by their non-inclusion in the select list and consequent appointment, have assailed the appointment of respondents 5 and 6 as Rehbar-e-Taleem made by respondent No.3 and sought its quashment. The petitioners also seek a direction to the respondents to appoint the petitioners against the vacancies to be available after the appointment of respondents 5 and 6 is set-aside. The petitioners edifice the writ petition on the grounds that though the petitioner No.1 and the respondent No.5 belong to the same Morah (Locality) and having regard to their place of residence were equally placed to compete for the vacancy of Rehbar-e-Taleem in Middle School Niali, yet the petitioner No.1 had a superior right to be appointed against the available vacancy as against the respondent No.5. on the ground that the petitioner No.1 had better academic qualification as against the respondent No.5. It is pleaded that the petitioner No.1 has done her graduation in Arts (B.A.) as also in Education (B.Ed) and thus had an edge over the claim of respondent No.5 to the vacancy who according to the petitioner No.1 had only

done Masters in Urdu. The comparative merit and technical qualification, according to the petitioner No.1 made her a better candidate for the aforesaid vacancy. The respondents are said to have ignored the better academic qualification of the petitioner No.1 and also the directions of this court in Balwinder Kour's case. A good teacher, it is averred, is backbone of society and a technically qualified person being well equipped to work as a teacher has a preferential right to be considered for appointment as Rehbar-e-Taleem as against a candidate having no technical qualification. The respondents are alleged to have acted arbitrarily and illegally while ignoring the petitioner No.1 and selecting respondent No.5 to man the post.

The challenge is thrown to selection of respondent No.6 as Rehbar-e-Taleem for Middle School Raper Village Dhamlar on the ground that the respondent No.6 does not reside in the Morah (Locality) where the Middle School, for which respondent No. 6 has been selected as Rehbar-e-Taleem, is situated. It is urged that the underlying object of Rehbar-e-Taleem Scheme is to ensure accountability of the Rehbar-e-Taleem and to attain the intended object, the scheme provides that the Rehbar-e-Taleem is to be drawn from the local community so that the local community does not only have a say in the selection but also exercises effective supervision. It is pleaded that selection of respondent No.6 against the vacancy

available in the school of a Morah where respondent No.6 does not reside runs against the fundamental principles of Rehbar-e-Taleem Scheme.

The respondents 1 to 4 in their objections, which at the request of the respondents are being treated as counter, refute the grounds set out in the writ petition. The objections, after summarizing the salient features of the Scheme, deny that the selection was made unmindful of the merit of the aspirants for the vacant positions. The respondents 1 to 4 while admitting that the petitioners as well as respondents 5 and 6 were recommended for appointment as Rehbar-e-Taleem against the available vacancies, have insisted that having regard to the eligibility criteria, merit and the academic qualification, the respondents 5 and 6 were selected for the available vacancies in the aforementioned Middle Schools. The respondents 1 to 4 have denied that respondent No.6 did not hail from the village where the vacancy was available. It is insisted that the residence in the concerned village and not the Morah/ Mohalla/ Pati is the requirement of Govt. Order No. 396 dated 28.4.2000.

The Government Order No. 396 dated 28.4.2000, as pointed out, does not only deal with the aims and objectives of the Scheme and the role the Rehbar-e-Taleems, is intended to play in universal enrolment and as catalyst for quality education, but also lays down the eligibility criteria for appointment as a Rehbar-e-Taleem. The

aforesaid Govt. Order provides for empanelment of a candidate from the locality as Rehbar-e-Taleem provided the candidate possesses the minimum qualification of 10+2. The Government Order does not provide for any preferential treatment to a candidate having academic qualification higher than 10+2. The reason and rationale for the eligibility criteria is not difficult to guess. It needs no emphasis that Rehbar-e-Taleem scheme was launched to meet the staff requirements of Schools located in difficult, inaccessible and far flung areas where the teachers posted from other places would not ordinarily attend their duties regularly. Furthermore the scheme provides for making up the deficiency in the school staff at elementary level. Be that as it may, the academic qualification requirement under the Rehbar-e-Taleem Scheme is 10+2 without any preferential superior right to the candidates possessing higher qualification. Against the said backdrop the claim made by the petitioner No.1 to a preferential right of consideration for Rehbar-e-Taleem vacancy in Middle School Niali as against the respondent No.5 who admittedly has done Masters in Urdu is not sustainable. There can be no disagreement that the State Government vide Govt. Order No. 1503-Edu of 2003 dated 1.10.2003 has room for comparative assessment of the academic qualification of aspirants for Rehbar-e-Taleem vacancy and it is expressly provided that a professional degree like B.Ed and M.Ed shall have an edge as against a academic post graduate degree. However, the Govt. Order is

prospective in its operation and cannot be pressed into service by petitioner No.1 to substantiate her claim. The advertisement notice, it may be stated at the cost of repetition, was issued on 28.4.2000 and the selection list prepared/ issued on 10.9.2001 i.e. much before the Govt. Order No. 1503-Edu of 2003 dated 1.10.2003. The case set up by the petitioner No. 1 thus does not find support from the pleadings and the record.

The petitioner No.2 has based his claim on the place of residence. If petitioner No.2 is to be believed the respondent No.6 does not hail from the place where the school, in which Rehbar-e-Taleem vacancy was available, is situated. The case set up and the arguments advanced at Bar in support of the case are made oblivious to the real import of the Scheme. It is true that the Scheme lays emphasis on the recruitment from the locality where he/ she has to serve. The object is that the Rehbar-e-Taleem is in a position to perform the role and discharge the duties visualized under the Rehbar-e-Taleem Scheme. The Rehbar-e-Taleem Scheme nonetheless provides for the “village” as the place of residence as against the Mohalla, Morah, or Pati. In other words an aspirant for Rehbar-e-Taleem vacancy should belong to the village where the vacancy is sought to be filled up. The village level committee as visualized by the Scheme is even empowered to draw up a panel from adjoining village where no eligible candidate from within the village is

available. The emphasis thus is on the “village” and not on the sub unit of the village like a Mohalla/ Morah. Having said so, it needs to be noted that the case set up by the petitioner No.2 is belied by the petition itself. The petitioner No.2 in the writ petition has given his place of residence as Village Dhamlar Mohalla Miali Tehsil Billawar District Kathua and the place of residence of respondent No.6 whom the petitioner wants to dislodge, is village Dhamlar, Morah Dhamlar, Tehsil Billawar. The petition thus itself indicates though both the petitioner No.2 and respondent No.6 belong to the same village and mere fact that the respondent No.6 does not hail from Morah Raper does not in any manner brighten up chances of petitioner No 2’s case. This apart even petitioner No.2 does not belong to Morah Raper as is evident from the petition itself.

The State Govt. through Govt. Order No. 563-Edu of 2005 dated 24.8.2005 has set at rest the controversy, if any, as regards true import of expression “Village” used in the Rehbar-e-Taleem Scheme. It stands clarified that the expression “village” used in the Rehbar-e-Taleem Scheme and the subsequent instructions shall mean and deemed to have always meant a revenue village.

So viewed the writ petition is devoid of any merit and liable to be dismissed.

This writ petition is accordingly dismissed.

Jammu
01.01.2010
Amjad lone

**(Gh.
Massodi)**

**Hasnain
Judge**