

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

SWP No.1752/2006

CMP Nos.2187/2006 & 2471/2010

Date of decision: 30 .12.2010

Mansha Begum & anr.

Vs.

State of J&K & ors.

Coram:-

Mr. Justice J.P. Singh, Judge.

Appearing counsel:

For the Petitioner(s) : Mr. Roop Lal, Advocate.

For the Respondent(s) : M/s Neeru Goswami, Dy.A.G & M. A. Bhat,
Advocate.

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| i) | Whether approved for reporting
in Press/Journal/Media | : | Yes |
| ii) | Whether to be reported
in Digest/Journal | : | Yes |

The petitioners-Mansha Begum and Phultaj were recommended for engagement as Rehbar-e-Taleem in the Upgraded Primary School, *Morian* by the Village Level Education Committee.

The Panel prepared by the Committee was later substituted by another Panel of seven persons, which included M/s Sajda Kosar and Tahira Kosar, respondent Nos. 5 & 6. The petitioners did not, however, figure therein.

The dispute between the petitioners and respondent Nos.5 & 6 as to their entitlement to selection and engagement as Rehbar-e-Taleem came to be considered by the Deputy Commissioner, Rajouri, who opined that the candidates of hamlet *Morian* of Village *Galuthi* would also be eligible for engagement along with the residents of that part of hamlet *Morian* which was situated in Village *Bhathian*.

Aggrieved by the decision of the Deputy Commissioner and claiming exclusive right of consideration to engagement as Rehbar-e-Taleem, to the residents of hamlet *Morian* falling in Village *Bhathian*, M/s Mansha Begum and Phultaj have approached this Court seeking

quashing of Deputy Commissioner, Rajouri's Communication No.HQA/DCR/816-18 dated 29.08.2006, besides a direction to the official respondents to consider them for engagement against available vacancies of Rehbar-e-Taleem in Middle School, *Morian* Village *Bhathian*.

It is not in dispute between the parties that the petitioners are residents of Hamlet *Morian* falling in Village *Bhathian* of Tehsil *Thanamandi*, and respondent Nos. 5 & 6 were residing in hamlet *Morian* falling in Village *Galuthi* of Tehsil Rajouri. The Affidavit of Deputy Commissioner, Rajouri, filed pursuant to the directions of the Court, indicates that Government Middle School, Morian falls in Education Zone *Manjakote*, Tehsil and District Rajouri and the building of Middle School, *Morian*, was located in Khasra No.30 (State Land) of village *Bhathian* in Tehsil *Thanamandi* of District Rajouri.

The issue that, therefore, arises for determination in the Writ Petition is as to whether the petitioners, who are residents of hamlet *Morian* of Village *Bhathian*, alone were entitled to consideration for engagement as Rehbar-e-Taleem in Middle School, *Morian* or the residents of hamlet *Morian* falling in Village *Galuthi*, too were eligible to compete.

During the pendency of the Writ Petition, respondent Nos. 5 & 6 got engaged as Rehbar-e-Taleem in Government Primary School, *Dharan* and Government Middle School, *Dharan*. They, therefore, have no interest left in the engagement of Rehbar-e-Taleem in Middle School, *Morian*.

M/s Mehmood Ahmed and Naim Kosar have, however, sought their impleadment as party respondents urging that being in the panel, they were interested in the issue raised by the petitioners in the Writ Petition, which, when decided, would affect their right to selection and engagement as Rehbar-e-Taleem in Middle School, *Morian*.

Heard learned counsel for the petitioners, the State counsel as also the learned counsel appearing for Mehmood Ahmed and Naim Kosar.

On facts, it was not disputed by the learned counsel appearing for Mehmood Ahmed and Naim Kosar that they were residents of that part of hamlet *Morian*, which falls in Village *Galuthi* of Tehsil Rajouri and the petitioners belonged to that part of hamlet *Morian*, which fell in the jurisdiction of Revenue Village *Bhathian* of Tehsil Thanamandi.

As the facts pleaded by the petitioners were not disputed by the learned counsel appearing for M/s Mehmood Ahmed and Naim Kosar, they were heard on merits of the petitioners' Writ Petition because there was no necessity of getting their formal Response thereto.

In view of the admitted facts, all that is required to be seen is whether being residents of a different Revenue Village, i.e, Village *Galuthi*, the residents of hamlet *Morian* falling in Village *Galuthi* were also eligible to compete for available vacancies of Rehbar-e-Taleem in Middle School, *Morian*, falling in Village *Bhathian*.

To find the answer to the issue, reference needs to be made to the Rehbar-e-Taleem Scheme launched vide Government Order No.396-Edu of 2000 dated 28.04.2000 and Government Order Nos. 563-Edu of

2005 dated 24.08.2005, 394-Edu of 2006 dated 28.07.2006 and 288-Edu of 2009 dated 08.04.2009.

In terms of the Rehbar-e-Taleem Scheme and the Government Orders, referred to hereinabove, only those belonging to the Village where the School was located are eligible to compete for engagement as Rehbar-e-Taleem in the School.

The "Village" contemplated by the Scheme has been declared by the State Government vide its Order of 24.08.2005 to mean and always deemed to have meant a "Revenue Village".

The School in question where the vacancies of Rehbar-e-Taleem have arisen, admittedly falls in hamlet *Morian* of Village *Bhathian* of Tehsil *Thanamandi*. Thus, according to the Scheme and the Government orders on the subject, only the residents of Village *Bhathian* would be entitled to compete for engagement as Rehbar-e-Taleem at Middle School, *Morian*.

The residents of that part of hamlet *Morian* which falls in another Village *Galuthi* of a different Tehsil, i.e, Rajouri, would have, thus, no right to consideration for engagement.

Deputy Commissioner, Rajouri's Communication impugned in the Writ Petition, whereby residents of hamlet *Morian* falling in Village *Galuthi*, too have been ordered to be considered for participation in the selection process is, thus, illegal being against the Scheme formulated vide Government Order No.396- Edu of 2000 dated 28.04.2000 and the Government orders issued in this behalf.

The claim of M/s Mehmood Ahmed and Naim Kosar to engagement as Rehbar-e-Taleem in Middle School, *Morian*, is, therefore, untenable.

For all what has been said above, this Petition succeeds and is, accordingly, allowed quashing Deputy Commissioner, Rajouri's Communication No.HQA/DCR/816-18 dated 29.08.2006 whereby residents of hamlet *Morian* falling in Village *Galuthi* too were allowed participation for selection as Rehbar-e-Taleem.

A direction shall, therefore, issue to respondent Nos. 1 to 4 to operate the earlier Panel in which the petitioners figured at Serial Nos.1 & 2, to consider them for selection and engagement as Rehbar-e-Taleem. Requisite orders shall be passed by the respondents in this behalf within a period of eight weeks.

(J. P. Singh)
Judge

Jammu:
30.12.2010
*Pawan Chopra**