

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

SWP No.1827/2004
CMA Nos. 3031/2012, 3778/2012, 3489/2012, 2319/2012, 2320/2012,
2297/2012, 651/2012, 341/2012, 2595/2009 & 828/2012.

Date of Decision: 31.12.2012

Dal Singh and ors.	v.	State of J&K and ors.
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Coram:
Mr. Justice J.P.Singh.

Appearing Counsel:
For the Petitioner(s) : Mr. O.P. Thakur, Advocate.
For the Respondent(s) : Mr. Ravinder Sharma, AAG.
Mr. P.N. Bhat, Advocate.

i)	Whether approved for reporting in Press/Journal/Media	:	Yes/No
ii)	Whether to be reported in Digest/Journal	:	Yes/No

Aggrieved by empanelment for selection as Rehbar-e-Taleem in Schools situated at village Alni Gangota Tehsil Gandoh of District Doda, the petitioners - seven in number, approached this Court in the year 2004 seeking directions against State and its functionaries in Education Department not to appoint respondent Nos. 8 to 16 as Rehbar-e-Taleem and for a Command to them to appoint only eligible candidates of village Alni Gangota as Rehbar-e-taleem.

Their Writ Petition, dismissed in default of appearance on December 15, 2007, was later restored but only insofar as it pertained to Mahesh Chander and Taslima Begum, petitioner Nos. 2 and 6.

Zahida Bano W/o Anayat Hussain was impleaded as respondent No.17 vide order dated 03.11.2009.

Considering the respondents' Response to Writ Petition and finding that the only dispute that needed consideration

was as to whether or not, the respondents were residents of village Alni Gangota and entitled to consideration for empanelment, selection and engagement as Rehbar-e-Taleem, it was considered appropriate to get an enquiry conducted for factual finding on the issue of actual residence of the respondents.

Deputy Commissioner Doda was directed to hold the enquiry.

Relying on official records and Certificates of Lambardars and Halqa Panchayat Members, besides the information conveyed by other residents of the area, the Deputy Commissioner found respondent Nos. 8, 9 and 10 the residents of village Dudwar. According to the learned Deputy Commissioner, these respondents possessed some landed property in village Alni Gangota as well and would spend only few months of summer season thereat. Certificate obtained by Ashiana Bano-respondent No.8 was found to have been got by misrepresentation of facts.

Kouser Parveen, Waheda Akhter, Arifa Bano and Nusrat Begum, respondent Nos. 11 to 13 and 16, too were found actual residents of village Dudwar. Farooq Ahmed-respondent No.14 was found resident of village Changa and no Permanent Resident Certificate had been issued in his favour for village Alni Gangota. Talib Hussain-respondent No.15 too was found by him to be the resident of village Changa and not Alni Gangota.

Respondents have filed Objections to the Deputy Commissioner's Report.

Heard learned counsel for the parties.

The Report of the Deputy Commissioner, which is based on records and is otherwise supported by the version of respectable persons of Alni Gangota and adjoining villages, some of whom were holding elected positions, justifies the petitioners' Complaint that the State-respondents had faulted in selecting respondents for engagement as Rehbar-e-Taleem without ascertaining true facts about their actual residence in village Alni Gangota, which was *sine qua non* for empanelment, selection and engagement of Rehbar-e-Taleem for Schools in the Village.

In these circumstances, when the Deputy Commissioner, on the basis of a detailed enquiry, has not supported the case set up by the respondents that they were actual residents of village Alni Gangota and on the other hand, had found them residents of villages other than village Alni Gangota, their empanelment/engagement as Rehbar-e-Taleem in village Alni Gangota cannot be sustained.

However, it becomes difficult for this Court to record positive finding, regarding the actual residence of the respondents on the date when notification for selection and engagement of Rehbar-e-Taleem was issued, in exercise of this Court's extra-ordinary Writ Jurisdiction. The issue regarding the empanelment, selection and engagement of Rehbar-e-Taleem against available vacancies, therefore, requires a fresh look by the Education Department of the State Government so that only those, who were eligible under rules governing selection and engagement of Rehbar-e-

taleem(s), were selected and engaged against available vacancies.

This Writ Petition is accordingly *allowed*, quashing the empanelment/selection of respondents and remitting the matter to Chief Education Officer, Doda to examine the petitioners' and respondents' Claims on their entitlement to selection and engagement as Rehbar-e-Taleem keeping in view the report of learned Deputy Commissioner as also the material that the petitioners and respondents may additionally produce before him to substantiate their respective claims for selection and engagement as Rehbar-e-Taleem against available vacancies.

The Chief Education Officer Doda to complete the exercise of selection and engagement, within four months.

(J. P. SINGH)
JUDGE

JAMMU
31.12.2012
Naresh/Pvt. Secy.