

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

SWP 1402/2010 c/w
SWP 1259/2010

1. Masrat Banoo W/O Mohammad Shafi Lone R/O Kawool Mandji
Charhar Tehsil Sopore District Baramulla

.....Petitioner(s)

Through: *Mr. B.A. Zargar, Advocate*

V/s

1. State of Jammu & Kashmir through Commissioner/Secretary to Govt. Social Welfare Department, Civil Secretariat Jammu/Srinagar
2. Director, Social Welfare Department Kashmir Srinagar
3. District Programme Officer Scheme (ICDS) Baramulla
4. Child Development Project Officer, Integrated Child Development Scheme (ICDS) Project Zaingeer
5. Mst. Tahira Akhter D/O Ghulam Mohammad Dar R/O Kawool Mandji Zaingeer Baramulla

.....Respondent(s)

Through: *Mr. Mohammad Younis Hafiz, Standing Counsel, vice
Mr. Abdul Rashid Malik, Sr.AAG*

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT/ ORDER

31.10.2023

1. Heard Mr. B.A. Zargar, learned counsel for the petitioner and Mr. Mohammad Younis Hafiz, learned standing counsel vice Mr. Abdul Rashid Malik, learned Senior Additional Advocate General representing respondents 1 to 4.

2. This is a 2010 writ petition filed by the petitioner for the purpose of seeking entertainment of her claim for selection and engagement as anganwadi worker with respect to anganwadi centre in village Kawool Mandji district Baramulla.

3. Respondent no. 4-Child Development Project Officer (in short 'CDPO'), ICDS Project Zaingeer came forward with an advertisement notice no. 04 dated 29-01-2010 for the purpose of selection and engagement of anganwadi workers for anganwadi centers located in fourteen different villages one of which being village Mandji and the anganwadi center being center for Mohalla Kawool.

4. In response to this advertisement, the petitioner and the private respondent no. 5 seems to have participated in the selection process on the basis of their credentials, academics as well as residential. The petitioner's academic merit seems to be higher than that of the private respondent no. 5. The petitioner claimed herself to be the actual resident of Mohalla Kawool and thus fully eligible for staking her claim for selection and engagement on account of her better educational merit. But it has appears that the said claim of the petitioner in terms of her residential status was found not to be correct and thus paving the way for the purported selection of the respondent no. 5 as anganwadi worker for which purpose the office of the respondent no. 4-CDPO Zaingeer came forward with a newspaper publication of the selection list in local Urdu Daily namely Daily United Times dated 28th August, 2010.

5. In terms of this select list, the name of the respondent no. 5 stood reflected at serial no. 13. The selection list was subject to objections from the aggrieved non-selected candidates within a period of seven days and the select list was said to be provisional subject to proper verification of the credentials of the selected candidates.

6. Upon filing of the instant writ petition, this Court, in terms of interim order dated 12.10.2010, came to direct *status quo* with respect to engagement of anganwadi worker in the writ petition.

7. On behalf of the respondent no. 5 reply/objections came to be filed on 16.07.2011 wherein the respondent no. 5 has objected to the claim of the petitioner in the context of her residential status relatable to Mohalla Kawool housing the anganwadi centre. As per the respondent no. 5, the petitioner is a resident of village Charihar and not the resident of location Kawool where the anganwadi centre is located. With respect to merit position *inter se* the petitioner and respondent no. 5, there is no denial in her reply to the writ petition on behalf of the respondent no. 5 that the petitioner is better merit holder.

8. The official respondents in their reply have invested stress on the fact that the petitioner does not belong to the hamlet (Mohalla Kawool) and thus was not to be considered for selection and engagement leaving only the respondent no. 5 as the lone contender for the engagement. The official respondents in their reply have not adverted to the documents produced by the petitioner along with her writ petition confirming her claim with respect to her residential status of hamlet (Mohalla Kawool). In this regard, the petitioner has annexed certificate issued by Secretary Panchayat concerned with respect to the residential status of the petitioner being resident of Charihar Kawool accompanied with certificate of Numberdar concerned and also the voter list.

9. This writ petition should not detain this Court long any further, as the authorities concerned including the official respondents have not come forward with an exercise of their end to confirm the fact as to

whether petitioner is or not actually the resident of village Mandji relatable to Mohalla Kawool whereas the petitioner claims that she is actually the resident of Mohalla Kawool Village Mandji which is also relatable to the revenue village Charhar.

10. Given the fact that the engagement of the anganwadi worker, notwithstanding the purported selection of the respondent no. 5, has not taken place yet in view of the *status quo* direction passed by this Court, as such, this writ petition is disposed of with following directions unto the respondent no. 4-Child Development Project Officer, Integrated Child Development Scheme Project Zaingeer:

- (i) To get the residential status of the petitioner qua Mohalla Kawool village and panchayat Mandji confirmed from the Tehsildar (Revenue) concerned on the basis of the residential credentials submitted by the petitioner in response to the advertisement notice no. 4 of 2010;
- (ii) Upon the basis of confirmation with respect to the residential status of the petitioner coming from the Tehsildar (Revenue) concerned, the respondent no. 4-Child Development Project Officer, Integrated Child Development Scheme Project Zaingeer shall take final decision with respect to selection and engagement of the petitioner vis-à-vis respondent no. 5 as anganwadi worker. In case, the petitioner's residential status is confirmed to be that of Mohalla Kawool then it is the petitioner who shall be afforded the engagement as an anganwadi worker for the anganwadi centre in reference and in case if the petitioner is

found to be not the actual resident of Mohalla Kawool village Mandji, then the selection of the respondent no. 5 shall invite her engagement as the anganwadi worker;

- (iii) Before taking any decision upon the basis of the report submitted by the Tehsildar Revenue concerned, the respondent no. 4 shall afford an opportunity of hearing both to the petitioner as well as the respondent no. 5 and there upon take the final decision;
- (iv) Needful exercise to be carried out by the respondent no. 4- Child Development Project Officer, ICDS Project Zaingeer within a period of three months from the date of receipt of certified copy of this judgment. Delivery of this judgment to be carried out by the petitioner. Delivery of certified copy of this judgment to the respondent no. 4 to be carried out by the petitioner within a period of two weeks with effect from date of pronouncement of this judgment/order which is today.

11. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

SRINAGAR:
31.10.2023
MUBASHIR

- (i) *Whether the judgment/order is speaking:* *Yes*
(ii) *Whether the judgment/order is reportable:* *Yes/No*