

(2017) 12 J&K CK 0022
In the Jammu And Kashmir High Court
Case No : 2048 of 2017

Kashmiri Sikh Community & Ors.

APPELLANT

Vs

State and others.

RESPONDENT

Date of Decision : 14-12-2017

Acts Referred:

[Constitution of India](#), [Article 14](#), [Article 16](#) - Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions - Dissolution of a Distr

Citation : (2017) 12 J&K CK 0022

Hon'ble Judges : Janak Raj Kotwal

Bench : SINGLE BENCH

Advocate : Z. A. Shah, A. Hanan

Judgement

MP No. 01/2017

1. Heard and allowed. Let a publication in terms of Order 1 Rule 8 CPC, be issued in two daily newspapers having wide circulation in the area

where the parties reside, at the expenses of the petitioners. The application stands disposed of accordingly.

OWPNo.2048/2017

MP No.02/2017

1. Under Kashmiri Migrants (Special Drive) Recruitment Rules, 2009 (for short to be referred to as the Rules of 2009), ""migrant"" unemployed

youth are eligible for appointment against the posts specially created from time to time in Kashmir Division, except the districts of Leh and Kargil,

under the Prime Minister's Special Package for return and rehabilitation of Kashmiri Migrants to the Valley. The term ""migrant"" is defined in Rule

2(d) and means a person; i) who has migrated from Kashmir Valley after 1st November, 1989, and ii) is registered as such with Relief

Commissioner or has not been so registered on the ground of his being in service of Government in any moving office or having left the Valley or

any other part of the State in pursuit of occupation or vocation or otherwise, and is possessed of immovable property at the place from where he

has migrated but is unable to ordinarily reside there due to disturbed conditions and includes an ""internally displaced person"". Meaning of ""internally

displaced person"" is given in the Explanation to Rule 2(d) as a person who had to migrate within Kashmir Valley from his original place of

residence in Kashmir Valley for reasons of security and is registered as such with the Relief and Rehabilitation Commissioner, Migrants.

2. By virtue of SRO 425 issued by the State Government vide Notification dated 10th. Oct. 2017, amendment has been effected to the Rules of

2009 and in terms of various amended provisions, the benefit under the Rules of 2009 has been extended to a person, who belongs to a ""Kashmiri

Pandit"" family and has not migrated from Kashmir Valley after Nov. 1989 and is residing in the Kashmir Valley.

3. Petitioner no.1, who claims to represent Sikh Community of Kashmir valley and petitioners 2 and 3, who claim to be members of the Sikh

Community, challenge the SRO 425 as also the Government order No.96-DMRR&R dated 13.11.2017, whereby a Committee has been

constituted by the Government for giving benefit in terms of the said SRO in this writ petition.

4. Heard Mr. Z. A. Shah, learned Senior Advocate, appearing on behalf of the petitioners It is point out and has been noticed, inter alia, that,

whereas the benefit under the Rules of 2009, as they originally were, was available to all the migrants as defined therein irrespective of any cast,

creed or religion, the benefit in terms of SRO 425 has been restricted to the members of a particular community, who have not migrated from

Kashmir Valley. The point raised in this writ petition, which is important indeed, is that the SRO offends Articles 14 and 16 of the Constitution of

India and the fundamental right of equality of unemployed educated youth of the petitioner community, who too have not left the Valley after No.

1989. Petitioners 2 and 3 claim to be unemployed youths.

5. On hearing learned counsel for the petitioner and according consideration to the matter on the touchstone of Articles 14 and 16 of the

Constitution, I am persuaded to show indulgence at this stage. Notice in the main as well as CMP.

6. Meanwhile, as ad interim, subject to objections and till next date before the Bench, no appointment in terms of impugned SRO 425 and

impugned Government order dated 13.11.2017, shall be finalized and made. List in second week of February, 2018.