
(2004) 09 J&K CK 0022
In the Jammu And Kashmir High Court
Case No : SWP 2014 of 2003

Ranjat Sharma

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 06-09-2004

Acts Referred:

Citation : (2005) 3 JKJ 434

Hon'ble Judges : Yash Paul Nargotra, J

Bench : Single Bench

Advocate : Sunil Sethi, for the Appellant; Neeru Goswami and R.K. Bhatia, for the Respondent

Final Decision : Dismissed

Judgement

Y.P. Nargotra, J.—By Government order No.396-Edu of 2000 dated 28.4.2000 a Rehbar-e-Taleem scheme was introduced with the objective of promoting the decentralized management of elementary education with community participation and involvement to ensure accountability and responsiveness through a strong backup and supervision through the community and to operationalise effectively the schooling system at the grass root level. Under the scheme provision of services of teaching guides called 'Rehbar-e-Taleem in the Primary and Middle schools to make up the deficiency of the staff was envisaged. The concept of the scheme provided that the person to be provided to make up the deficiency of the staff at the elementary level of education will be designated as 'Rehbar-e-Taleem'. The underlying objective was to posit the role of the teaching guide as catalyst for quality education and to ensure the overall development of the personality of the children drawn from the local

community and accountability of the teacher would be immediately providing for constant interface and interaction with the community to secure

universal enrolment and to check the incidence of drop outs. Under the scheme for the purpose of selection, composition of a Village Level

Committee, which was to draw panel of eligible candidates from the village in which the primary or middle school was existing, is to be composed

of:-

Two parents of the children studying in the institutions within the village provided they are literate;

Two persons to be nominated from the village who have social standing;

A representative of women/scheduled caste/scheduled tribe;

Zonal Education Officer.

2. The eligibility for appointment under the scheme is as follows:-

Rehbar-e-Taleem should be the permanent resident of the State;

He or she should belong to the village where there is assessed deficiency of staff. On the certification of VLC that no local candidate from the

village is available, VLC can draw up the panel from the adjoining village;

He or she should possess the minimum qualification of 10+2;

The candidate shall as far as possible fulfill the age qualification as prescribed by the State government;

Due consideration shall be given by the VLC's to the scheduled castes and scheduled tribes.

3. The panel drawn up by the V.L.C. is required to be submitted through Zonal Education Officer to the concerned Deputy Commissioner and the

Dy.Commissioner (along with a representative of Director School Education) to be nominated by him in advance) has to make final selection with

the assessed requirement and formal order for engaging Rehbr-e-Taleem has to be issued by the ZEO concerned.

4. Chief Education Officer Jammu by his Notification No.DIP/J/863 invited applications for filling up the posts of teachers through Rehbar-e-

Taleem scheme (RT scheme hereafter), in the month of July 2003. The petitioner Ranjat Sharma as well as respondent No.6, Smt. Anita Khajuria,

applied for the said post existing in Primary school Rara, Tehsil Samba. The Village Level Committee (VLC) prepared a panel of the candidates as

per their inter-se merit. The name of respondent No.6, Anita Khajuria, figured at S.No.1 and the name of the petitioner was at S.No.2 of the said

panel. The panel so prepared contained the following note:-

5. Certified that S.No.1 Anita Khajuria residing at Sainik colony Jammu at present.

6. The panel after being prepared came up for consideration before the Village Education Committee, which passed the following resolution:-

A meeting of the Village Education Committee of village RARA was convened on 14.10.2003 under the chairmanship of Zonal Education Officer

Ramgarh in which the following committee members were present. It was made clear to all committee members that the panel for the engagement

of Rehbar-e- Taleem teacher has been prepared, which was shown to the committee members with the view of verification by the committee

members and to insure the certification on the part of the committee members that all the candidates contained in the panel are permanent resident

of village RARA and are also presently residing in the above said village except S.No.1 only who is residing at Sainik colony Jammu.

The selected candidates contained in the panel are strictly considered on the basis of qualification/merit. The panel was verified & vetted by the

committee members on spot.

7. After the approval of the panel respondent No.6 has been selected for appointment as teacher. The petitioner has challenged the selection of

respondent No.6 for appointment as a teacher on the ground that respondent No.6 is resident of Sainik colony Jammu; therefore, under the

scheme she could not be considered for appointment in respect of a vacancy occurring in Primary school in village Rara Tehsil Samba. The

petitioner has attached a certificate issued by Sainik Cooperative Housing Society Jammu whereby it has been certified that Bodh Raj S/O Late

Pt.Charandas is a member of the Society under registered No.3533 and has been allotted plot No.237-C in the said colony whereupon he has

constructed his house in which he is living with his family, including Smt.Anita Khajuria W/O Sunil Sharma. There is another certificate issued by

Capt.Govind Singh Panch W.No.6 Sainik colony Panchayat Halqa Sunjwan which certifies that Anita Khajuria W/O Sunil Sharma is a permanent

resident of Sainik colony Jammu, House No.237 sector C. It may be mentioned

here that Bodh Raj in whose name plot No.237-C has been allotted is the father-in-law of respondent No.6. The case of the petitioner thus is that respondent No.6 Smt.Anita Khajuria is residing at Sainik colony Jammu in the house of her father-in-law and therefore could not be considered for appointment to the post of teacher in Govt.Primary School Rara under RT scheme.

8. The stand of respondent No.6 is that she alongwith her husband is living separately in village Rata Tehsil Samba.Her husband is also a teacher and presently is posted at Higher secondary school Rehel Tehsil Bishna. She has also attached some certificates of the villagers and another Panch of village Rara certifying that she is residing alongwith her husband in their house at village Rara. She has also attached copy of her permanent resident certificate as well as copy of the ration card and a certificate issued by Naib Tehsildar Samba in which she has been shown to be resident of village Rara Tehsil Samba.

9. The stand of the official respondents as projected in the reply affidavit is that recommendation of the Village Level Committee has been approved on the basis that respondent No.6 has permanent resident certificate of village Rara and is more meritorious than the petitioner.

10. I have heard the learned counsel for the parties and perused the record of the case thoroughly.

11. The sole controversy raised in this petition is with regard to the residence of respondent No.6 Smt.Anita Khajuria. The claim of the petitioner is that she residing with her father-in-law at Sainik colony Jammu whereas the stand of respondent No.6 is that she is residing with her husband in village Rara. Learned counsel for respondent No.6 does not dispute the fact and rather admits that respondent No.6 before her marriage with Sunil Sharma was permanent resident of Jammu and not of village Rara. According to him she acquired residence of her husband after being married to him where after she has been living with her husband at village Rara. So far as the residence of husband of the petitioner is concerned, it is quite evident from copy! of the ration card annexed with the objections and genuineness of which has not been disputed by the petitioner, that he is shown to be a resident of village Rara. The ration card is for two persons, which include respondent No.6 Smt.Anita Khajuria.

12. In view of the fact that respondent No.6 is the wife of Sunil Sharma, who is resident of village Rara, it can be assumed that she has acquired the status of being belonging to village Rara. The question arising for consideration is that assuming that she was residing in Sainik colony with her father-in-law, in view of the fact that said fact stood acknowledged by the Village Level Committee in the panel prepared for selection to the post of teacher, was she entitled for selection and appointment under RT scheme and in that view of the matter whether the actual residence in the concerned village of a candidate is the sine qua non for the said selection and appointment?

13. As already said, one of the pre-requisite of the eligibility criteria envisaged under RT scheme is that he or she should belong to the village where there is assessed deficiency of staff. The contention of Mr. Sethi, learned counsel for the petitioner, is that the word belong would mean that the person to be selected as teacher under RT scheme must actually reside within the village for being eligible for consideration for selection and appointment. On the other hand the contention of learned counsel for the respondents is that the actual residence at the time of selection in the village is not necessary. According to him what is relevant is that the person should come from that village. Mr. Bhatia, learned counsel appearing on behalf of respondent No.6, submits that respondent No.6 after her marriage belongs to that village and though she is residing in the same village yet assuming that she was not actually residing there, still she will not be disentitled for selection and appointment as a teacher under RT scheme.

14. From the perusal of the eligibility criteria set down under the RT scheme it is ! manifest that the words actually residing in the village are conspicuously absent and in instead the word belong has been used. The word belong has not been defined anywhere in the scheme. In the absence of definition given under the scheme, its meaning has to be understood in the ordinary parlance. The word belong as per The New Shorter Oxford English Dictionary, 1993 Edition, carries the following meanings:-
Be connected with as a member, part, inhabitant, dependency etc.

15. Thus a person who is connected with the village as a member, part or inhabitant, is to be deemed to be a person belonging to that village. Such person who belongs to a village may not necessarily reside in that village. A

situation can be conceived where a person of a village may go out of the village, reside at some other place and be in search of a job. If he does not get a job there, can he be excluded from the opportunity of getting

a job in his own village to which he belongs? The RT scheme requires that a person to be appointed under the scheme must belong to that village.

The object of making a person belonging to a particular village entitled to appointment is that being a person of the village he can have a better

concern for the students of that village. He can be the best person to promote the objectives envisaged by the scheme, described above.

16. In my considered opinion simply because a person at the time of selection is not actually residing in that village where the assessed deficiency

of staff exists in a school cannot be disentitled from selection and appointment under RT scheme on that ground alone. Respondent No.6 in the

present case, after her marriage with a person, resident of village Rara has to be deemed to be a person belonging to that village. Simply because

she was found to be residing with her father-in-law at Sainik colony Jammu, it cannot be said that she had lost her eligibility for being considered

for selection and appointment as a teacher under RT scheme. The petitioner was low in merit, though! h belonging to the same village, therefore,

does not possess a better claim for appointment as compared to respondent No.6.

17. For the aforesaid reasons, I find no merit in this petition which is accordingly dismissed, alongwith connected C.M.Ps.

18. Interim direction dated 30.10.2003 shall stand vacated.