

(2021) 12 J&K CK 0049

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 2239 Of 2015

Tanveera Hamid Naqashbandi

APPELLANT

Vs

State Of JK And Ors

RESPONDENT

Date of Decision : 21-12-2021

Acts Referred:

Jammu And Kashmir Reservation Rules, 2005 — Rule 21(3), 23

Citation : (2021) 12 J&K CK 0049

Hon'ble Judges : Sanjay Dhar, J

Bench : Single Bench

Advocate : Kaiser Ali, Usma Gani

Final Decision : Disposed Of

Judgement

Sanjay Dhar, J

1. Petitioner through the medium of instant petition has challenged order dated 28.11.2015, whereby, respondent No.4 has declined to issue backward area certificate in favour of the petitioner on the ground that the petitioner has not been found residing for 15 years in the backward area as laid down in Rule 21(3) of Jammu & Kashmir Reservation Rules, 2005.

2. The case of the petitioner is that she got married to one Shabir Hussain Rather way back in the year 2007 who is a resident of backward area and that she has also obtained permanent resident certificate of the said village and that she also holds the election card showing her residence in backward area. It is the case of the petitioner that the requirement of 15 years residence in backward area would not be applicable to a lady who has entered into wedlock with a person residing in backward area.

3. During the course of hearing, learned counsel for the petitioner has submitted that, as of now the petitioner has been actually residing for 15 years in the backward area in question and even if interpretation given by respondent No.3 to the rules holding the field is accepted, still then she is eligible to apply for

backward area certificate.

4. In view of the above circumstances and without expressing any opinion as to the merits of the contention raised by the petitioner in this petition, the writ petition is disposed of with a direction to the respondent No.4 to consider the case of the petitioner for grant of backward area certificate on its own merits in accordance with law and rules holding the field. In this regard, petitioner shall make a fresh application before respondent No.4, which shall be considered and decided by the said respondent within 15 days from the date of receipt of the application as provided in Rule 23 of Jammu & Kashmir Reservation Rules 2005.

5. Writ petition stands disposed of.