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GOVERNMENT OF JAMMU AND KASHMIR
SCHOOL EDUCATION DEPARTMENT,
CIVIL SECRETARIAT JAMMU

(Legal Section)

Subject: LPA No. 109/2020 titled Union Territory of J&K and Ors Vs Maria Nazir & others in SWP No. 1888/2015 titled Maria Nazir & Ors. Vs. State of J&K and Ors.

Government Order No: ^{12/13-} - Edu of 2021

D a t e d: 28- 07 - 2021

1. Whereas, vide advertisement notice dated 04 08 2014, applications were invited from eligible candidates of District Kulgam by Chief Education Officer concerned vide advertisement notification No. CEO/K/NT/01/14 dt 04/8/2014 published in the Greater Kashmir for the post of Class IV.

2. whereas after so called fulfillment of all the formalities a selection list was prepared on 29/12/2014.

3. Whereas, The Chief Education Officer, Kulgam vide communication No. CEO/K/NT/1523/15 dated 12.06.2015 has sought approval to the selection list accordingly;

4. Whereas, the Director School Education, Kashmir vide communication No. DSEK/NT/DRC/26-31/2015/Kul/2021 dated 18.06.2015 informed the concerned Chief Education Officer that selection list in question has been prepared by Chief Education Officer in the capacity as Chairman of the Selection Committee as such he has to consider the matter at its own level after considering the all aspects;

5. Whereas, pursuance to selection list dated 29.12.2014, some of the selected candidates have submitted their joining report. However, posting orders were not issued in their favour as Chief Education Officer, Kulgam observed that in terms of Government Order No 731-Edu of 2010 dated 24.06.2010, The Chief Education Officer, Kulgam was required to include one member from Directorate to be nominated by Director School Education, Kashmir in the selection

committee but he has failed to do so, as such selection was made in contravention to rules;

Whereas, thereafter one Maria Nazir and others approached the Hon'ble High Court through the medium of SWP No 1888/2015 titled Maria Nazir and others Vs State of J&K and others with the prayer that respondents and particularly respondent No 4 Chief Education Officer, Kulgam be directed to issue orders of posting in favour of the petitioners and also pay them the salary with effect from their date's of joining;

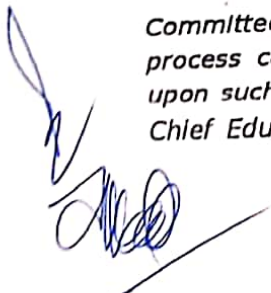
6. Whereas, the said writ petition was disposed of by the Hon'ble High Court on 30.10.2019, the operative part whereof is reproduced as under:-

7. "That petitioners are declared to have been appointed pursuant to order of selection dated 29th of December 2014 against the post of Class IV in District Kulgam from the date(s) they joined on the said posts, and By a writ of Mandamus; the respondents Chief Education officer, Kulgam/respondent No. 3 is directed to issue orders of posting in favour of the petitioners forthwith and also pay them the salary with effect from the date(s) they joined on the posts in question pursuant to order dated 29th December 2014".

8. Whereas, the the matter was taken up with the Department of Law, Justice and Parliamentary Affairs for seeking sanction to file and conduct LPA against the order dated 30.10.2019 passed by Hon'ble High Court in SWP No 1888/2015 titled Maria Nazir and others V/s State of J&K & Ors. The Department of Law, Justice and Parliamentary Affairs has accorded sanction for filing of LPA against the order dated 30.10.2019;

9. Whereas, the School Education Department filed LPA before the Hon'ble Division Bench bearing LPA No. 109/2020 titled UT of J&K and others Vs Maria Nazir and others and the said LPA was listed before the Hon'ble Division Bench on 11.12.2020 and the Hon'ble Court was pleased to pass the following order:-

"Accordingly, this appeal is accepted and the judgment of the learned Single Judge is set aside. We, however, direct the Chief Education Officer, Kulgam, to place the whole record before the Commissioner/Secretary to Government, School Education Department, who will himself or through a Committee constituted by him, go into the legality and otherwise of the selection process carried by the then Incharge Chief Education Officer, Kulgam, and if upon such verification, it is found that the selection process carried by the then Chief Education Officer was fair and the candidates had been selected on the



basis of their merit and in accordance with the rules shall proceed to finalize the select list and issue formal orders of appointment in favour of the selected candidates, notwithstanding the fact that in the Selection Committee which conducted the recruitment process, nominee of the Head of the Department was no associated. Let this exercise be completed by Commissioner/Secretary to Government, School Education Department within a period of four weeks from the date copy of this order is served upon him".

10. Whereas in deference to the Hon'ble Division Bench's order dated 11.12.2020, The Chief Education Officer, Kulgam vide communication No. CEO/Kul/Lit/21/4719-21/21 dated 13.01.2021 submitted the original record regarding the selection process of Class-IV (direct Quota) of the year 2014;

11. Whereas, thereafter pursuant to the Hon'ble Division's Bench's order, the Administrative Secretary, School Education Department vide Government Order No. 31-Edu of 2021 dated 04.02.2021, constituted a Committee under the Chairmanship of Director School Education, Kashmir;

12. Whereas, the Chairman of the said Committee was transferred and the School Education Department vide Government Order No. 64-Edu of 2021 dated 19.03.2021, constituted another Committee and the Director School Education, Kashmir was nominated as Chairman of the Committee, but the said Chairman was also stands transferred to other Department.

13. Whereas, the School Education Department in partial modification of above mentioned Government orders nominated Mr. Tassaduq Hussain Mir, KAS, Director School Education, Kashmir as Chairman of the Committee vide Government Order No. 1150-Edu of 2021 dated 12.07.2021 and the said Committee vide communication No. DSEK/Legal/87/15/702 dated 20.07.2021, submitted its report to the School Education Department;

14. Whereas, the recommendation of the said Committee is reproduced hereunder:-

"...the committee is of the considered opinion that the whole selection process right from the issuance of advertisement till issuance of so called provisional selection list has been accomplished in total violation of rules/guidelines/orders governing the subject. Therefore malafide intentions of the executing officers/officials cannot be ruled out and stern action as per law/rules governing the subject needs to be initiated against the then incharge CEO and other officials who are associated with this whole process".

15. Now therefore, in deference of the Order dated 11.12.2020 passed by the Division Bench of Hon'ble High Court of J&K at Srinagar in LPA No. 109/2020 titled UT of J&K and others Vs Matia Nazir and others and as per the report of the Committee, the whole selection process is declared void ab initio and matter needs to be referred to the investigating agency to further enquire into roles of officials involved in this malafide preparation of select list and their subsequently joining the Department.

By Order of the Government of Jammu and Kashmir.

Sd/-
(B.K. Singh)

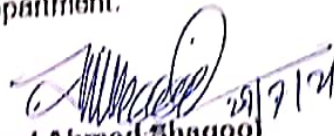
Principal Secretary to the Government
School Education Department


Dated. 20-07-2021

No. Edu-LGLoCou/25/2021

Copy to the -

1. Joint Secretary, (J&K), Ministry of Home Affairs, Government of India.
2. I.G. Crime for Information.
3. Director School Education, Kashmir for information and necessary action.
4. Chief Education Officer, Kulgam for information and necessary action.
5. Pvt. Secy. to Principal Secy to Government, School Education Department.
6. I/C Website
7. Govt. Order file (w.3.s.c)


(Javed Ahmed Shagoo)
Additional Secretary to Government
School Education Department


20/07/2021