



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

Subject: SWP No: 434/2003 c/w SWP No: 735/2004 titled Shakeela Rehman and others V/S State and others.

Government Order No: 1670 - Edu of 2016

D a t e d: 09 - 09 - 2016

Whereas, Government notified the Rehbar-e-Taleem Scheme vide Government Order No. 396-Edu of 2000 dated 28.4.2000 to secure peoples participation in the management of education at grass root level and to provide teaching guides called Rehbar-e-Taleem (R-e-T) in the Primary and Middle Schools to make up the deficiency of the staff from the local community so as to organize a constant interface with the community and to secure universalization of education and arrest the incidence of drop out; and

Whereas, the scheme also provided the mode and procedure for recruitment of the identified vacancies of teachers; and

Whereas, the process of filling up of the vacancies of teachers in any school through medium of R-e-T scheme was stopped by the Government vide Government Order No: 1670-Edu of 2003 dated 24.11.2003 and only the posts created under Sarva Shiksha Abhiyan (SSA) for new primary schools, upgraded primary schools & 3rd teachers for innovative activities were ordered to be filled up through the medium of this Scheme by the Directors of School Education in their respective areas of jurisdiction; and

Whereas, one Mst. Nelofar Tahir and others filed writ petition SWP No. 434/2003 before the Hon'ble High Court challenged the legality of the

R-e-T scheme, and the Hon'ble High court vide its order dated: 24.11.2003 passed the following orders:-

".....Notice in the CMP also. In the meanwhile there shall be stay on the appointments on the post of 3rd teachers of Primary School excepting in accordance with the Jammu and Kashmir Service Recruitment Rules, 1992".

Whereas, the respondents preferred an LPA No. 148/2003 in respect of aforesaid orders and the Hon'ble Court vide order dated 13.2.2004 modified the order as under:-

"Appearance as above. Having heard learned counsel for the parties, we direct that except for 42 posts, the respondent/interveners before this Court, all other posts of third teacher in primary schools under Sarva Shiksha Abhiyan are free to be filled under programme strictly in accordance with engagement/recruitment rules/scheme is fair, reasonable, objective and informed of public interest. The process of filling up of the posts be taken accordingly. However, engagement to the posts shall be subject to outcome of the writ petition and CMP posted for hearing before the learned Single bench on 23.2.2004, besides the outcome of LPA before this court. It is to be noted that if a candidate(s) out of the above 42 posts makes selection/engagement grade on merits, then such candidates(s), subject to conditions imposed in this order, shall also be entitled to engagement/appointment, like all other engaged/appointed candidates".

Whereas, on 14.10.2011, the Hon'ble High Court directed the Commissioner/Secretary, School Education Department to pass consideration order; and

Whereas, in pursuance of the direction of the Hon'ble Court, the matter was examined in the Department and the plea of the petitioners for engagement/appointment was rejected by issuing Government Order No. 318-Edu of 2012 dated 28.03.2012; and

Whereas, another writ petition came to be filed before the Hon'ble High Court bearing SWP No: 735/2004 titled Shakeela Rehman and others V/S State and others and the Hon'ble High Court disposed of the SWP No: 434/2003 c/w SWP No: 735/2004 on 01-06.2016, the operative part whereof is reproduced as under:-

".....Accordingly, direction is issued to the respondents to consider the claim of the petitioners for appointment under Sarva Shiksha Abhiyan scheme in terms of the Para 5 of the Government Order which is indicated above subject to the condition that all the petitioners in both the petitions satisfying the eligibility criteria as has been prescribed by the Government.

If the claim of the petitioners falls outside the purview of the Scheme on account of age, the government to consider plea for exemption in view of the pendency of the writ petitions for a long number of years. The aforesaid exercise shall be completed within eight weeks from the date of receipt of copy of this order.

Both the writ petitions stand disposed of in the above terms along with connected CMPs".

Whereas, the Sarva Shiksha Abhiyan (SSA) is a centrally sponsored scheme, where the method of selection is to be decided by the State Government and accordingly, the unit of selection was fixed at village level with the primary objective to provide assured teaching guides in schools in villages, and

Whereas, the Department stopped engagement in 2003 under the scheme as soon as the deficiency of staff was met and since then has been referring general line teacher posts to Services Selection Board for recruitment as per rules; and

Whereas, the post of 3rd teacher referred in the judgment is required to be filled up by engaging a local eligible and meritorious candidates available in the unit of selection and the petitioners have

neither applied for any post nor are resident of the village and as such do not fulfill the eligibility criteria laid down for the engagement of 3rd teacher; and

Whereas, during the intervening period from 2003 onwards, the department has referred large number of posts of teachers for recruitment by Services Selection Board and the petitioners are expected to have competed for the same; and

Now, therefore, in compliance to the Hon'ble High Court's direction dated 01.06.2016 passed in SWP No. 434/2003 c/w SWP No. 735/2004, the claim of the petitioners after having been considered, is found without merit and, as such, rejected thereof.

By Order of the Government of Jammu and Kashmir.

**Sd/-
(Shaleen Kabra)**

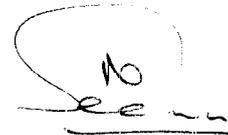
Commissioner/Secretary to Government
School Education Department

Dated: 09-09-2016

No: Edu/Legal/K/96/2016

Copy to the:-

1. Director School Education, Kashmir for information and necessary action.
2. Ld. Deputy Advocate General, J&K High Court, Srinagar for information and necessary action.
3. Chief Education Officer, Anantnag.
4. Pvt. Secretary to Commissioner/Secretary to Government, School Education Department for information of Commissioner/Secretary.
5. Incharge Website
6. Petitioners.
7. Govt. Order file (w.3.s.c)
8. Stock file.



(Naseema Nazir)

Under Secretary to Government
School Education Department