

for Mail

**GOVERNMENT OF JAMMU AND KASHMIR
STATE MISSION DIRECTOR, ICDS, J&k
3rd.Floor,Haj House, Rail Head Complex, Jammu**

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Subject: Implementation of court order dated: 17-12-2015 passed by Hon'ble High Court in SWP No.2067/2014, CMP No.3280/2014 titled Gulshan Ara W/O:Lt.Abdul Rashid Dar R/O:Aglar Kandi, Pulwama V/S State of J&K & Others.

ORDER NO: 561-SMD of 2017.
DATED : 09-02-2017.

Whereas the Hon'ble High Court on 17-12-2015 was pleased to dispose of the above titled writ petition in the following manner:

“Viewed thus, this writ petition has merit. The impugned order No.204 DSWK of 2014 is quashed and respondent No.2 i.e. Director Social Welfare Department, Kashmir Srinagar is directed to enter into the controversy afresh and decided the same in terms of the judgment dated:18-7-2013 read with judgment dated:06-12-2006.Since the matter is hanging fire from the last more than a decade, respondent No.2 shall do good by taking appropriate but well considered view at an earliest preferably within a period of four weeks after petitioner produces a copy of this order in the office of the respondent no.2

Whereas the Hon'ble High Court while disposing the SWP No.342/2011 titled Gulshan Ara on 18-07-2013,directed as under”

“The petition is as such disposed of with a direction to the respondent No.2, Director Social Welfare that he shall strictly enter upon the controversy and settle it in light of direction dated:06-12-2006 within a period of six weeks from the date copy of the order is served upon him. The decision as shall be taken shall be conveyed both the petitioner as well as to the respondents No.5.

Whereas, the Hon'ble High Court disposed off the SWP No.316/2006 titled Mehatab Bano on 06-12-2006 directed as under:

In given circumstances and nature of the controversy, the petition is with agreement of appearing counsel disposed of with an observation that respondent no.2-Director Social Welfare shall enter upon the controversy and after hearing petitioner and the objector

pass appropriate orders within two months from now. Meanwhile duty earned admitted wages of petitioner in terms of engagement order aforesaid may be released to her under rules governing the matter.

Whereas, the then Director Social Welfare, Kashmir, dated:18-7-2013 passed an detailed consideration order No.204-DSWK of 2014 dated:03-07-2014, wherein the claim of the petitioner(Gulshan Ara) was rejected .

Whereas the Hon'ble High Court vide order dated:17-12-2015 passed in above titled writ petition quashed the order No.204-DSWK of 2014 dated:03-07-2014.

Whereas, the matter was taken up with the State Board of School Education, (BOSE) Kashmir, with the request to appraise this office as to whether the marks secured by the candidate can be taken into account while calculating the overall merit. It was also intimated that both the litigant parties had applied for the honorary post of Anganwadi Worker and as per norms the merit was to be calculated as per percentage of marks obtained by the aspiring candidates in the matriculation.

Whereas, it will be worthwhile to mention here that during phase-I, 2005, one Anganwadi centre was sanctioned for village Aglar District Pulwama. The post has been advertised and applications have been received by the CDPO, ICDS, Project, Keller.

Whereas, only two applications have been received one from the petitioner and other from the private respondent.

Whereas, the then District Level Selection Committee has selected the private respondent (Mehtaba Bano) on the basis of matriculation marks.

Whereas, the petitioner has completed her matriculation as Adeb Candidates and has passed English, from J&K State Board of School Education securing 53% marks in English and & 45% marks in Adeb in aggregate 38.25% in two subjects at the time of filling application form.

Whereas, the petitioner herein filed a complaint before the authorities on the ground that she has higher merit than the selectee. As the selectee has only 28.56 points in full matriculation and the petitioner herein has 38.25 in two subjects i.e. (Urdu and English).

Whereas, the case taken up in the Lok Adalat held under the chairmanship of then Director Social Welfare, Kashmir, it was decided that the merit of the Mst. Mehtaba is lower than Gulshan Ara and her selection is liable for cancellation and a candidate with higher merit is to be replaced as envisaged in engagement order itself.

Whereas, Mst. Mehtaba not satisfied with the decision of the Lok Adalat, filed a SWP NO: 316/2006 before the Hon'ble High Court and Hon'ble Court directed to maintain status quo.

Whereas the Hon'ble Court disposed off the said petition on 06-12-2006 with the above quoted direction.

Whereas the Gulshan Ara filed another writ petition before the Court of law bearing No.342/2011 and the same was disposed of on 18-7-2013 with the above quoted directions.

Whereas a detailed speaking order was passed by the then Director social Welfare bearing No.204-DSWK of 2014 dated:03-07-2014 in light of the court directions dated: 18-7-2013 which has been quashed by the Hon'ble Court on 17-12-2015, with direction to the respondent No:2, i.e: Director Social Welfare Department Kashmir, Srinagar.

....."Shall do good by taking appropriate but well considered view at an earliest preferably within a period of four weeks after the petitioner produces a copy of this order in the office of the respondent no.2.Srinagar.

Now keeping in view the above position and the circular instructions of the state Board of School Education, and other relevant documents submitted by the petitioner herein and rule position, The order issued by the then Director Social Welfare Kashmir has been re-securitized and it is hereby ordered that the order of engagement issued in favor of Mehtaba Bano D/O:Mohammad Sultan Dar by CDPO,ICDS, Project, Keller bearing NO: CDPO/Kel/AWW/100-103 dated:20-08-2005 is hereby cancelled and Mst. Gulshan Ara W/O:Ab.Rashid Dar R/O; Aglar Kandi Pulwama is appointed as Anganwadi worker for Anganwadi Centre Aglar with Immediate effect. Further joining of Mst. Gulshan Ara W/O Ab. Rashid Dar is subject to verification of original certificates by the concerned CDPO under rules.

Sd/-

Talat Parveez
State Mission Director (ICDS)
Jammu & Kashmir

Dated: 2-02-2017.

NO:SMD/ICDS/Legal/ 2659-56
Copy to the:

1. Secretary to Govt. Social Welfare Department J&K, Jammu for information.
2. District Programme Officer, ICDS, Pulwama for information.
3. Child Dev. project Officer, ICDS, Keller. for information and necessary action.
4. Concerned for information.
5. Office order file.


Pran Singh(KAS)
Joint Director,(SMD).