



Subject: - OWP No. : - 333/2017 titled Inhabitants of village Amroie V/s State and others.

ORDER No: - ¹²⁹⁹ -DRDK of 2018

DATED: - ²⁰ -11-2018

Whereas, the petitioners have filed OWP No :- 333/2017, titled inhabitants of village Amroie V/s State and others before the Hon'ble High Court, wherein they have prayed for following relief :-

- (i) *Issue an appropriate writ, order or direction in the nature of mandamus, commanding the respondents to consider the representations and objections of the petitioner in light of the notice issued on 28.03.2016 issued by respondent NO. 4 for draft proposal of reservation for women ST Sarpanch in village KP 304 Amroie.*
- (ii) *Issue an appropriate writ, order or direction in the nature of mandamus, commanding the respondents to consider the representation of the petitioner dated 09.02.2017 and 20.02.2017 presented before respondent No. 4 and representation filed by petitioner to respondent No. 3 without further delay. Furthermore, the respondent NO. 1 be directed to hold an enquiry for not considering representation / objections of the petitioner till date.*
- (iii) *The Hon'ble High Court may pass any other order or direction, which it deems it just and proper under the facts and circumstances of the case.*

Whereas, the Hon'ble High Court has been pleased to dispose of the above titled OWP on 11.10.2018 with following order.

- (i) *By the nature of relief sought for, this writ petition is admitted to hearing and taken up for final disposal.*
- (ii) *Mr. Mohammad Saleem Mir, the learned counsel, appearing on behalf of the petitioners, states that he will feel satisfied in the event the instant writ petition is disposed of by directing the respondents to treat the same as representation on behalf of the petitioners and accord consideration to the claim of the petitioners, as espoused therein within a reasonable timeframe.*
- (iii) *In view of the aforesaid statement of the learned counsel for the petitioners, the writ petition is disposed of with a direction to the respondents to treat the same as representation on behalf of the petitioners and accord consideration to the claim of the petitioners, as projected in the writ petition. Needful, on the part of the respondents, to be done in accordance with rules governing the field within a*



period of two weeks from the date the certified copy of this order along with the writ petition with all its annexures is made available to them by the petitioners.

(iv) *Writ petition, alongwith connected MP (s), disposed of as above.*

Whereas, under the provisions of the Sub-section (3) of Section (4) of Jammu and Kashmir Panchayati Raj Act 1989 amended upto October-2018 and Sub-rule (1-A) of Rule (4) of Panchayati Raj Rules 1996 amended upto October-2018 and as per SRO 181 dated – 18th June 2004, the Director Rural Development has been appointed as prescribed authority to reserve/ allot the Sarpanch / Panch seats for SC/ST/Women & ST in all the Panchayat Halqas.

Whereas, accordingly this office had issued a draft proposal notice for reservation of SC/ST/Women & ST in the Kashmir Division which includes the proposal for reservation of panchayat Halqa Amrohiee as ST women vide this office notification dated: - 28.03.2016 and the same notice was published in the Daily Newspaper Tameel Irshad dated :- 31.03.2016 for inviting objections / suggestions from the general public.

Whereas, this office has not received any objection / suggestion from the public of the concerned area within the prescribed timeline given in the notice referred to above.

Whereas, the above referred to draft proposed notification was not finalized at that time by this office due to the deferment of the Panchayat election in the year 2016 and as such the demand of the inhabitants of Panchayat Halqa Amroie expressed through their representation dated 20.02.2017 was not considered due to non-issuance of formal / final notice in this behalf.

Whereas, the District Panchayat Officer Kupwara vide letter No:- DPO/404 dated :- 28.06.2018 submitted the population figures of Panchayat Halqa Amrohiee as per census – 2011 to this office which authenticates the ST population 597 souls and general population 531 souls and thereafter the proposal for allotment / reservation of SC/ST/Women & ST seats was also submitted by him vide letter No :- DPO/921 dated :- 24.09.2018 to this office, in pursuance of the provisions of J&K Panchayat Raj Act 1989 amended upto October 2018 under sub-section 3 of section 4 read with SRO 181 of 2004 dated :- 18.06.2004, relevant part of which is reproduced hereunder:-

Provided further that

- (a) *“ not less than one-third of the total number of ² Sarpanch and Panch seats reserved under above provsio shall be reserved for women belonging to the Scheduled Castes or, as the case may be the Scheduled Tribes”.*
- (b) *“not less than one-third (including the number of ² Sarpanch and Panch seats reserved for women belonging to scheduled castes and the*

23



scheduled Tribes) of the total number of seats to be filled by direct election in every panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a panchayat by such authority and in such manner as may be prescribed”.

“SRO -181 – In exercise of the powers conferred by section 80 of the Jammu and Kashmir Panchayati Raj Act 1989, the Government hereby direct that in the Jammu and Kashmir Panchayati Raj Rules, the following amendments shall be made, namely:-

(1) At the end of sub-rule (1) of rule 4, the following sub-rule shall be added:-

“(1-A) The Director, Rural Development shall-

- (a) Determine the number of panch seats reserved for the Scheduled castes and Scheduled Tribes, and women in every Halqa Panchayat in accordance with sub-section (3) of section 4 of the act;*
- (b) Allot the panch seats reserved for women, Scheduled castes, Scheduled Tribes, as the case may be, by rotation, after every general election, to different constituencies in a Halqa panchayat; and*
- (c) Distribute the panch seats reserved for the Scheduled Castes and Scheduled Tribes, as far as practicable, in those areas in a Halqa Panchayat where the proportion of their population to the total population is comparatively large”.*

Whereas, this office had again issued draft proposal notification vide this office No:- 1046-DRDK of 2018 dated :- 26.09.2018 for reservation of SC/ST/Women & ST in Kashmir division as per the provisions of J&K Panchayati Raj Act 1989 (amended upto October 2018) read with J&K Panchayati Raj Rules 1996 (amended upto October 2016) for conducting of Panchayat Election-2018, which also includes Panchayat Halqa Amrohiee reserved as ST Women and the notice was published in the Daily Newspaper Aftab on 28.09.2018 for inviting of objections and suggestions from the general public and after prescribed time for filing of objections / suggestion, no objection was received by this office in this behalf.

Whereas, the final notification was accordingly issued by this office vide No: - 4-DRDK of 2018 dated :- 06.10.2018 for allotment / reservation of Sarpanch constituencies for SC/ST/Women & ST, which includes the Panchayat Halqa Amrohiee reserved for ST women.


Whereas, the Panchayat Election – 2018 is under process and the Election Notification for Block Teetwal District Kupwara stands issued by the Chief Electoral Officer J&K Srinagar vide his notification dated :- 23.10.2018 and the last date for filing of nomination papers with regard to Sarpanch / panch

dz



constituencies of Block Teetwal including the Panchayat Halqa Amrohiee was on 30.10.2018. The District Panchayat Officer Kupwara has reported vide letter No. DPO/K/2018/Pyt/Elc dated: - 14.11.2018 that only one nomination was filed in respect of Panchayat halqa Amrohiee and the Sarpanch candidate has been declared Un-opposed and elected Sarpanch on 02.11.2018 by the competent authority.

Now, in compliance of the Hon'ble High Court order dated: - 11.10.2018 and in light of the J&K Panchayati Raj Act-1989 amended upto October 2018 and Panchayati Raj rules -1996 amended upto October 2018, the demand of the (Petitioners) inhabitants of village Amroie in the case titled Inhabitants of Village Amroie V/S state and others has been considered and found devoid of any merit and is hereby rejected on the grounds specified herein above.


Director 20.11.18

Rural Development Department
Kashmir

No:-DRDK/Pyt-Elc/

414576-82

Dated: 20.11.2018

Copy to the:-

1. Chief Electoral Officer J&K Jammu for information.
2. Secretary to Government, Rural Development Department & Panchayati Raj, Civil Secretariat, Jammu for information.
3. District Panchayat Election Officer (Deputy Commissioner) Kupwara for information and necessary action.
4. Project Officer Wage Employment (ACD) Kupwara for information and necessary action.
5. District Panchayat Officer Kupwara for information and necessary action.
6. Block Development Officer Teetwal or information and necessary action.
7. I/C Official website of DRDK for uploading.
8. office order file .