

BY SPEED POST



Government of India
National Commission for Scheduled Tribes
6th floor, 'B' Wing, Loknayak Bhawan
Khan Market, New Delhi-110 003.

File No. SA/1/2016/STGJK/SEOTH/RU-I

Date: 29/06/2017

To

1. The Chief Secretary,
Govt. of Jammu & Kashmir,
Civil Secretariat,
Srinagar – 190001 (J&K),
Fax: -0194-2452356.
2. The Financial Commissioner,
Agriculture Production
Department,
Govt. of Jammu & Kashmir,
Civil Secretariat, Srinagar.
Jammu & Kashmir.
3. The Commissioner / Secretary,
Govt. of Jammu & Kashmir,
Agriculture Production
Department,
Civil Secretariat,
Srinagar – 190001.
Jammu & Kashmir.
4. The Secretary,
Jammu & Kashmir Public
Service Commission,
Srinagar, Solina,
Jammu & Kashmir – 190001.
5. The Commissioner / Secretary,
General Administration Department,
Govt. of J&K,
Civil Secretariat, Srinagar,
Jammu & Kashmir.

Sub: Representation dated 04/04/2016 received from Shri Shakoor Ahmed, S/o Qais-ud-Din, R/o Challas, Post Office Chakli Bagala, District Rajouri, Jammu & Kashmir - 185151 regarding violation of JK Reservation Act 2004 by JKPSA for recruitment of reserved category Backlog posts.

Sir,

I am directed to enclose a copy of the minutes of Sitting held in the National Commission for Scheduled Tribes on 18/05/2017 on the above mentioned subject for immediate necessary action. Action Taken Report in this regard may be submitted to the Commission **within 15 days** positively.

Encl: As above.

Yours faithfully,


(Rajeshwar Kumar)
Assistant Director

Copy to:

Shri Shakoor Ahmed,
S/o Qais-ud-Din, R/o Challas,
Post Office Chakli Bagala,
District Rajouri,
Jammu & Kashmir – 185151.

Copy for information to:

1. PS to Hon'ble Vice-Chairperson, NCST
2. SSA NIC (for hosting on Commission's website)

GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR SCHEDULE TRIBES

File No. SA/1/ 2016/STGJK/SEOTH/RU-I

Proceedings of the sitting taken by the Vice-Chairperson, NCST on 18.05.2017 in the case of Shri Shakoor Ahmed regarding cancellation of de-reserved post of Agricultural Engineering (Soil Conservation Assistant-Engg / Biogas Engg and Technical Assistant) by Jammu and Kashmir Agriculture Production Department / Jammu & Kashmir Public Service Commission under ST category.

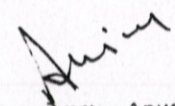
Date of sitting : 18.05.2017

List of Participants : (Annexure – I)

The matter was taken up with the Chief Secretary, Govt. of Jammu & Kashmir, Secretary, Agriculture Production Department, Govt. of Jammu & Kashmir and the Chairman, Jammu & Kashmir Public Service Commission vide the Commission's letter dated 06.04.2016. The J&KPSC replied vide their letter dated 30.05.2016 that the backlog post of Soil Conservation Assistant / Bio Gas Engineer and Technical Assistant were de-reserved by the Agriculture Production Department by invoking Section-5 of Reservation Act, 2004 as the post remain unfilled during the first and second special drive of recruitment due to non-availability of the eligible candidates for a period of more than 5 years. The copy of above reply was sent to the petitioner for information. In response to the reply of J&KPSC he has submitted a rejoinder dated 18.07.2016 before the commission with some queries. The rejoinder was taken up with the J&K PSC and Agriculture Production Department and they have furnished their replies.

Petitioner was not satisfied with stand taken by Government of Jammu & Kashmir and approached to the Hon'ble Vice-Chairperson, NCST with his points and Hon'ble Vice-Chairperson fixed a sitting to discuss the matter with the Secretary, Agriculture Production Department, Govt. of Jammu & Kashmir, the Secretary, Jammu & Kashmir Public Service Commission and the Secretary, General Administration Department, Govt. of Jammu & Kashmir on 18.05.2017 at 3:00 PM.

Mr. S. Ahmed, Assistant Director, Jammu & Kashmir Public Service Commission came without any authority letter and none of the authorities came from Agriculture Production Department and General Administration Department for meeting. Hon'ble Vice Chairperson took it very seriously and commented that this shows the attitude of the officials towards Scheduled Tribe candidates.


सुश्री अनुसुईया उइके / Miss Anusuiya Uikey
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

The opportunity was given to the petitioner for explaining the grievance. Shri Shakoor Ahmed argued that J&K PSC has advertised two attempts whereas it should be three as per the J&K Reservation Act, 2004 (Section-5 of the Act). Moreover, the de-reservation proposal submitted by J&K PSC to Commissioner / Secretary to APD, Govt. of Jammu & Kashmir vide letter no. PSC/DR/CA(Engg)/2010 dated 08-12-2011 and letter dated 23/07/2015 contains the wrong information about notification no. 01 and 02. (04 PSC of 2006 dated 26-05-2006 and 05 PSC of 2009 dated 02-02-2009). If the proposal of de-reservation itself is questionable then how they can proceed for the de-reservation of posts?

The Commission asked for clarification on the queries of the petitioner. Mr. S. Ahmed shared that J&K PSC advertise 3 terms of advertisement including fresh advertisement and there is no as such practice of advertising under backlog post. Whereas according to the J&K Reservation Act, 2004 itself explains that in subsequent year, when recruitment is made for reserved vacancies, the backlog vacancies shall also be notified provided that the total number of reserved vacancies including backlog vacancies shall not exceed the percentage reserved for such categories.

Candidates were available before de-reservation of post which was done in December, 2015 and they have approached to the department, J&K PSC and other related department and state Govt. for advertisement of these posts under reserved category but the department de-reserved the post overlooking the availability of eligible candidates at that time.


As the petitioner also stated that the J&K PSC and J&K APD have sent fake information of notifications of PSC in 2006. All three agencies stated different dates of notification as follows:

As per advertisement published in Daily Local News Paper Kashmir Times / Greater Kashmir	In De-reservation Proposal by J&K Public Service Commission	As per facts provided by J&K Agriculture Production Department
9 PSC of 2006 Dated: 28-12-2006	4 PSC of 2006 Dated: 26-05-2006	9 PSC of 2006 Dated: 26-05-2006

Mr. S. Ahmed admitted that 9 PSC of 2006 dated 28-12-2006 is the correct information.

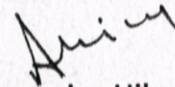
The Vice-Chairperson took a serious note on such incorrect information provided by the Agriculture Production Department and Jammu & Kashmir Public Service Commission.

Commission invited the attention of officer of Jammu & Kashmir Public Service Commission to the DOP&T Office Memorandum No. 36012/6/88-Estt. (SCT) dated 25


 सुश्री अनुसुइया उइके / Miss Anusuiya Uikhey
 उपाध्यक्ष/Vice Chairperson
 राष्ट्रीय अनुसूचित जनजाति आयोग
 National Commission for Scheduled Tribes
 भारत सरकार/Govt. of India
 नई दिल्ली/New Delhi

April, 1989 has not been taken into consideration and observed that when the J&K PSC de-reserved the ST vacancies in December, 2015, there were the eligible candidates available including Shri Shakoor Ahmed. Shri Shakoor Ahmed was eligible in the month of June, 2015. It was also observed that 11 vacancies have been notified out of which not a single vacancy reserved for Scheduled Tribe Community when candidates from ST Community were available. In the circumstances, the Commission advices to the J&K PSC and J&K APD that they may re-consider their decision to de-reserve the ST vacancies and reserve at least 4 vacancies as was done in the year 2006, in the 11 vacancies for which advertisement was made under notification no. 6 PSC (DR-P) of 2016 dated 14-03-2016. In that way, the candidature of Shri Shakoor Ahmed can also be considered by the J&K PSC.

An action taken report on the issue may be sent to the Commission at the earliest.


(Miss Anusuiya Uikey)
Vice-Chairperson, NCST

सुश्री अनुसुईया उइके / Miss Anusuiya Uikey
उपाध्यक्ष / Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

List of Participants

Sr. No.	Name and Designation
I	<u>National Commission for Scheduled Tribes</u>
1.	Ms. Anusuiya Uikey, Hon'ble Vice-Chairperson
2.	Shri P.T. Jameskutty, Deputy Secretary
3.	Shri Rajeshwar Kumar, Assistant Director
4.	Shri H. R. Meena Senior Investigator
5.	Shri Narendra Kumar Jangid, PS to Vice-Chairperson
II	<u>Jammu & Kashmir Public Service Commission</u>
1.	Mohd. Ashraf, AD (PSC)
III	<u>Petitioner</u>
1.	Shri Shakoor Ahmad