



OFFICE OF THE
ELECTION AUTHORITY
UNDER PANCHAYATI RAJ ACT, 1989
(CHIEF ELECTORAL OFFICER, JAMMU & KASHMIR)
2ND FLOOR VIKAS BHAWAN, RAIL HEAD COMPLEX, JAMMU

NOTIFICATION

Whereas, in pursuance of Rule 7 of the J&K Panchayati Raj Rules, 1996, the Government had issued a Notification, in consultation with the Election Authority (Chief Electoral Officer, J&K), vide its SRO No.78 dated 14th March, 2011, calling upon the Panchayat Halqas in the State to elect Sarpanches and Panches on the dates to be appointed by Election Authority (Chief Electoral Officer, J&K);

Whereas, in pursuance of Rule 8 of J&K Panchayati Raj Rules, 1996, the Election Authority (Chief Electoral Officer, J&K) had issued a Notification on 18th March, 2011, notifying the dates for the 1st Phase of Election for Sarpanches and Panches in respect of Blocks Kupwara, Kangan, Budgam, Quimoh Main, Quimoh Partly, Udampur, Samba and Bishnah as per the schedule given below:-

- a) 18th March, 2011 as date of issue of Gazette Notification,
- b) 25th March 2011 last date for making Nominations,
- c) 26th March, 2011 date of Scrutiny of Nominations,
- d) 28th March, 2011 last date for withdrawal of candidate,
- e) 13th April, 2011 date of poll/counting wherever, necessary,

Whereas, District Panchayat Election Officer (Deputy Commissioner) Budgam has intimated that two nomination papers were filed in the office of Returning Officer, Jawalapura/Shoggapora/Sundipora for Panch Constituency No.4 of Panchayat Halqa BD-93 Sundipora of Block Budgam;

Whereas, the name of one candidate namely Mrs. Kulsuma D/o Mohammad Hussain Bhat and W/o Gh. Mohammad Bhat is reflected at S.No.15 of the Electoral Roll showing her age as 29 years;

Whereas another candidate namely Mrs. Kulsuma W/o Gh. Hussain Bhat has been reflected at S.No.101 of the electoral roll list showing her age as 36 years;

M. Hussain 8/04/11

Whereas, as per report of District Panchayat Election Officer (Deputy Commissioner) Budgam a dispute has arisen whether one of the candidates namely Mrs. Kulsuma D/o Mohammad Hussain Bhat and W/o Gh. Mohammad Bhat is eligible to contest election as per detail given below:-

1. On the date of scrutiny i.e., 26th March, 2011, the husband of Mrs. Kulsuma W/o Gh. Hussain Bhat raised an objection regarding the age of Mrs. Kulsuma D/o Mohammad Hussain Bhat and W/o Gh. Mohammad Bhat on the plea that the incumbent had not attained the age of 25 years and the age reflected in the electoral roll was not correct and as such her nomination form was required to be rejected.
2. The complainant was asked by the Returning Officer to produce relevant age proof. Thereafter the complainant has submitted his objection in writing to the Block Development Officer, Budgam (around 12:30 p.m.) on same day viz., 26-03-2011, the date of scrutiny and endorsed the same to Head Master, Gazergund so that the Date of Birth could be authenticated from the school records.
3. The complainant thereafter produced report of the Head Master Government Primary School, Gazergund, which reveals that as per school records the date of birth of Miss Kulsuma D/o Mohammad Hussain Bhat R/o Gazergund is 04-03-1989 and she was reading in Class 5th in the session 1998 under Roll No.5 Admission No.103.
4. The said communication was presented to the Returning Officer at 2:30 p.m. on 26-03-2011 i.e., on the date of scrutiny. The Returning Officer upon perusal of the Headmaster's remarks on the application asked the complainant to get the same countersigned by the Zonal Education Officer concerned. In the meanwhile Miss Kulsuma D/o Mohammad Hussain Bhat was enlisted in the list of contesting candidate in constituency 4 of Panchayat Halqa BD-93 Sundipora.
5. On 02-04-2011, the complainant presented the Date of Birth duly countersigned by the Zonal Education Officer to the Returning Officer.

Whereas, the Returning Officer should have accepted the Date of Birth certificate issued by the Head Master, Government Primary School, Gazergund, which showed that one of the candidates namely Ms. Kulsuma D/o Mohammad Hussain Bhat and W/o Ghulam Mohammad Bhat had not attained the age of 25 years as required under section 6 of the Panchayati Raj Act, 1989 and as such was not eligible to contest the elections;

Whereas, the Returning Officer had instead issued instructions that the Date of Birth certificate issued by the Head Master, Government Primary School, Gazergund should be countersigned by the Zonal Education Officer and in the meanwhile included the name of Ms. Kulsuma D/o Mohammad Hussain Bhat and W/o Ghulam Mohammad Bhat in the list of contesting candidates (PEL-10) even though she was not qualified/eligible to take part in the elections;

Whereas, the perusal of report submitted by the District Panchayat Election Officer (Deputy Commissioner) Budgam reveals that the Returning Officer has committed a procedural mistake while carrying out the scrutiny of nomination papers as per the instructions laid down in the Handbook of Returning Officer;

Handwritten signature and date:
8/04/11

Whereas, the action of the Returning Officer reveals his absolute ignorance and complete lack of knowledge and awareness of the basic legal provision relating to the conduct of elections of Sarpanches and Panches with special reference to the scrutiny of nomination papers, which has led to the improper acceptance of the nomination papers of Mrs. Kulsuma D/o Mohammad Hussain Bhat and W/o Ghulam Mohammad Bhat from Panch Constituency No.4 of Panchayat Halqa BD-93 Sundipora of Block Budgam by him, in total violation of the laid down procedure;

Whereas, such improper acceptance of nomination papers of Mrs. Kulsuma D/o Mohammad Hussain Bhat and W/o Ghulam Mohammad Bhat from Panch Constituency No.4 of Panchayat Halqa BD-93 Sundipora of Block Budgam by the said Returning Officer has resulted in complete vitiation of the Election proceeding in the said Constituency and the continuation of such vitiated election proceedings in the Panch Constituency under reference would be wholly unnecessary and unjustified, considering the huge burden on the contesting candidate and electors of the constituency, apart from being a wasteful administrative effort and Govt. expenditure in the conduct of such proceedings;

Now, therefore, in exercise of the powers conferred under section 36 of the J&K Panchayati Raj Act, 1989 read with rule 3 of J&K Panchayat Raj Rules, 1996, the Election Authority (Chief Electoral Officer, J&K) hereby rescinds its Notification dated 18th March, 2011 issued in pursuance of Rule 8 of J&K Panchayati Raj Rules 1996 in so far as it relates to the Panch Constituency No.4 of Panchayat Halqa BD-93 Sundipora of Block Budgam. Fresh Notification for the conduct of election to the said Panch Constituency shall be issued in due course.

B. R Sharma 8/04/11
(B. R Sharma) IAS
Election Authority
Under Panchayati Raj Act, 1989
(Chief Electoral Officer, J&K)
Jammu

No.5311/CEO/PYT/Notification/2011/*3980-84*

Dated: 08-04-2011

Copy to the:-

1. Commissioner/Secretary to Government, Rural Development Department, J&K, Jammu for information.
2. Director, Information and Publicity, J&K, Jammu with the request to publish the notification through electronic and print media especially in Kashmir Division.
3. Divisional Commissioner, Kashmir for information.
4. District Panchayat Election Officer (Deputy Commissioner) Budgam for information and to circulate the above said notification to the concerned Returning Officer.
5. Principal Private Secretary to Chief Secretary, J&K, Jammu for the kind information of Chief Secretary, J&K.