

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

D.B. Spl. Appl. Writ No. 580/2025

1. State Of Rajasthan, Through Its Principal Secretary, Department Of Elementary Education, Government Secretariat, Rajasthan, Jaipur.
2. Secretary, Rural Development And Panchayati Raj Department, Government Of Rajasthan, Secretariat, Jaipur.
3. Director, Elementary Education, Bikaner.
4. Joint Director (Personnel), Elementary Education, Rajasthan, Bikaner.
5. The Chief Executive Officer, Zila Parishad, Banswara, (Rajasthan).
6. District Education Officer, Headquarter (Elementary Education), Banswara.
7. District Education Officer (Secondary Education), Banswara.

----Appellants

Versus

Indra Ninama D/o Heera Lal Maida, Aged About 41 Years, Agarpura, Ward No. 16, Behind Sumanand Jain Temple, District Banswara.

----Respondent

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|-------------------|---|------------------------------------------------|
| For Appellant(s)  | : | Mr. Ayush Gehlot for<br>Mr. Rajesh Panwar, AAG |
| For Respondent(s) | : | --                                             |

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**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR  
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA**

**Order**

**13/02/2026**

1. The matter comes up on an application under Section 5 of the Limitation Act seeking delay in filing the appeal.

2. Having considered the application and the reasons stated therein, the application is allowed. The delay in filing the appeal is hereby condoned.

3. With the consent of learned counsel for the appellants, the matter has been decided finally.

4. Learned counsel for the appellants-State fairly submit that the controversy involved in the present appeal is no more *res-integra* and it is covered by the decision rendered by a Coordinate Bench of this Hon'ble Court at Jaipur Bench in ***State Of Rajasthan & Ors. v. Dal Chand Jat (D.B. Special Appeal Writ No. 293/2020)*** and other connected matters on 13.11.2025. The relevant portion of the judgment reads as under:

"19. Thus, it is apparent that the law laid down by the Apex Court of not allowing recovery of excess payment made without any misrepresentation or fraud on the part of the employee is a law of equity. A person who is working with the State Government is not authorized to make his own pay fixations.

20. In the present case on account of wrongful interpretation at the hands of the concerned District Education Officer and the Account Officers, the pay fixations were done from the initial date of appointment without taking into consideration the probationer trainee period.

21. The writ petitioners, therefore, cannot be said to be at fault, hence, while we uphold the order passed by the State Government for making re-fixation done only after considering the probationer trainee period, we do not find it a case where we should allow the State to make recoveries from the teachers who are at the lowest rank of the services namely; on the post of Teacher Gr-III.

22. Our view is also buttressed from the latest views taken by the Apex Court following the aforesaid judgment of "Thomas Daniel" (supra) and "Rafiq Masih (White Washer)" (supra) in the case of "Jogeswar Sahoo & Ors. vs. The District Judge, Cuttack & Ors.": 2025 INSC 449 and the

earlier judgment of "Jagdish Prasad Singh Vs. State of Bihar & Ors.": 2024 INSC 591.

23. We, accordingly, modify the judgment passed by the learned Single Judge to the aforesaid extent. All the appeals are, accordingly, party allowed.

24. All pending applications stand disposed of.

25. A copy of this order be placed in each connected files."

5. In light of the aforequoted order, the present special appeal is disposed of on the same terms. All pending applications, if any, also stand disposed of.

**(CHANDRA SHEKHAR SHARMA),J**

**(VINIT KUMAR MATHUR),J**

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