

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

S.B. Civil Writ Petition No. 6243/2026

Divya Panchal D/o Shri Prem Chand, W/o Shri Vishal Panchal,
Aged About 41 Years, R/o Village Post Dhambola, Tehsil
Simalwara, District Dungarpur, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Education, Government Of Rajasthan, Jaipur, Rajasthan.
2. Director, Elementary Education, Bikaner.
3. The District Education Officer, (Elementary Education) Rajsamand.
4. The District Education Officer, (Elementary Education) Dungarpur.
5. The Chief Executive Officer, Zila Parishad, Rajsamand.

-----Respondents

For Petitioner(s) : Mr. Tanwar Singh
For Respondent(s) :

HON'BLE MR. JUSTICE SANJEET PUROHIT

Order

23/03/2026

1. Learned counsel for the petitioners submits that for the same recruitment, similarly situated petitioners had approached this Court at Jaipur Bench in ***S.B. Civil Writ Petition No.21214/2017*** titled ***Om Prakash & Ors. vs. State of Rajasthan & Ors.*** Said petition was decided vide order dated 21.11.2017 granting relief to petitioners in light of judgment dated 01.04.2015 passed in the case of ***Hemlata Shrimali & Ors. Vs. State of Rajasthan & Ors.*** bearing ***S.B. Civil Writ Petition No. 3247/2015***, while also relying upon adjudication undertaken in

the case of **Suman Bai & Anr. v. State of Rajasthan & Ors.: 2009 (1) WLC (Raj.) 381**. It is therefore prayed that present writ petition may also be decided in light of judgment passed in the case of **Om Prakash** (supra).

2. In **Om Prakash** (supra), this Court at Jaipur, after noticing orders passed in the cases of Hemlata Shrimali (supra) and Suman Bai (supra), observed as under:-

“Learned counsel for the petitioners, at the very outset, submits that the controversy raised in the instant writ application stands resolved in view of the adjudication made by a Coordinate Bench of this Court in a batch of writ applications lead case being S.B. Civil Writ Petition Number 3247/2015: Hemlata Shrimali & Ors. Versus State of Rajasthan & Ors., decided on 1st April, 2015, relying upon the adjudication in the case of Suman Bai & Anr. Versus State of Rajasthan & Ors.: 2009 (1) WLC (Raj.) 381, observing thus:

“5. Upon consideration of the arguments aforesaid and the judgment of the Division Bench in Hari Ram and the subsequent order dated 21.7.2001 whereby clarification application of the State Government was dismissed, I find that the entitlement of the petitioner for appointment on the basis of originally prepared merit list cannot be denied. If admittedly the candidates, who are lower in merit, have been granted appointment, those who are above them in the merit cannot be denied such right of appointment. Seniority as per the rules in the case of direct recruitment on the post in question is required to be assigned on the basis of placement of candidates in the select list and when the selection is common and the merit list on the basis of which appointments were made is also common, right to secure appointment to both the set of employees thus flows from their selection which in turn is based on merit. Regard being had to all these facts, merely because one batch of employee approached this Court later and another earlier, and both of them having been appointed, the candidates who appeared lower in merit cannot certainly be placed at a higher place in seniority. It was on this legal analogy that Division Bench of this Court in Niyaz Mohd.Khan (supra) held that the petitioner therein entitled to be placed in seniority in order of merit of common

selection amongst persons appointed in pursuance of the same selection with effect from the date person lower in order of merit than the petitioner was appointed with consequential benefits.

6. I am not inclined to accept the argument of the learned counsel for the respondents No.4 to 8 that the judgment of the learned Single Judge should be so read so as to infer therefrom that though the petitioners would be entitled to claim appointment but not seniority above the candidates who are already appointed even though they admittedly are above them in the merit list. Infact, the judgment of the learned Single Judge merely reiterated the direction of the Division Bench in Hari Ram (supra) in favour of the petitioners. But construction of that judgment in the manner in which the respondents want this Court to do, would negat the mandate of the Rules 20 and 21 of the Rajasthan Education Subordinate Service Rules, 1971, which requires seniority to be assigned as per the inter-se merit of 7 the candidates in the merit list based on common selection. Even otherwise, no such intention of the Court is discernible from reading of that judgment. Mere appointment of the petitioner was a sufficient compliance of the judgment and not total compliance was the view taken by this Court also when contempt petition filed by the petitioners was dismissed. Question with regard to correct and wrong assignment of seniority having arisen subsequent to appointment of the petitioners would obviously give rise to a afresh cause of action. The writ petition filed by the petitioners, therefore, cannot be thrown either barred by resjudicata or otherwise improperly constituted.

7. In the result, this writ petition is allowed and the respondents are directed to treat the petitioners senior to respondents No.4 to 8 as per their placement in the merit list."

Learned counsel for the petitioner further submits that instant writ application be also disposed off in terms of the order dated 24th May, 2017, as extracted herein above.

Ordered accordingly."

3. In view of the submissions made, present writ petition filed is also disposed of in light of order passed in the case of **Om Prakash** (supra).

4. Order has been passed based on the submissions made in the petition; however, respondents would be free to examine the veracity of the submissions made in the petition and, only if the averments made therein are found to be correct, would the petitioners be entitled to the relief.

(SANJEET PUROHIT),J

25-shashikant/-