

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

S.B. Civil Writ Petition No. 9926/2026

Neelam D/o Shri Omprakash W/o Shri Dinesh Kumar, Aged
About 30 Years, Resident Of Village Bass Mamraj Post Noohand,
Tehsil Rajgarh, District Churu, Rajasthan.

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Principal Secretary,
Department Of Personnel, Government Of Rajasthan,
Secretariat, Jaipur, Rajasthan.
2. The Principal Secretary, Department Of Medical And
Health Department, Government Of Rajasthan,
Secretariat, Jaipur, Rajasthan.
3. The Joint Secretary, Medical And Health Department
(Group-Iii), Government Of Rajasthan Secretariat, Jaipur,
Rajasthan.
4. The State Health And Family Welfare Institute (Sihfw),
Rajasthan, Jhalana Institutional Area, Jaipur, Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. Puna Ram Sen
For Respondent(s)	:	Mr. Tanuj Jain for Mr. Mukesh Dave, AGC

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

08/05/2026

1. This writ petition has been filed by the petitioner with the
following prayers:

“It is therefore, respectfully prayed that this writ petition may
kindly be allowed and, by an appropriate writ order or
direction:

- a) The present writ petition filed by the humble petitioner
may kindly be allowed with costs throughout.
- b) Issue a writ of Certiorari or any other appropriate writ,
order, or direction, quashing and setting aside the rejection
orders dated 24.07.2025 (Annexure-06) and 19.09.2025

(Annexure-08), being illegal, arbitrary, and directly contrary to the law laid down by this Hon'ble Court in S.B. Civil Writ Petition No. 7512/2022 (Aman Kumari vs. State of Rajasthan).

c) directing the Respondents to forthwith consider the candidature of the Petitioner in the EWS category and finding them otherwise eligible and within the merit cut-off, to issue appointment order for the post of Nursing Officer within time-bound period.

d) Issue a further direction to the Respondents to grant the Petitioner all consequential benefits (including seniority, fixation of pay, and notional monetary benefits) from the date candidates lower in merit to the Petitioner was accorded appointment.

e) Issue an appropriate interim direction commanding the Respondents to keep one post vacant for the Petitioner in the EWS category during the pendency of this Writ Petition.

f) Any other appropriate writ, order or direction which this Hon'ble Court may deem just and in the facts and proper circumstances of the case may also kindly be passed in favour of the humble petitioner.”

2. Brief facts of the case are that the respondent, State Institute of Health and Family Welfare, Jaipur issued Advertisement No. F-109(7)/SIHFW/MH dated 05.05.2023 for recruitment of over 6600 Nursing Officers in non-scheduled areas, followed by multiple notices regarding applications, corrections, and document verification, all duly complied with by the petitioner; prior to this, an order dated 25.04.2023 issued by the Joint Secretary, Medical and Health (Group-3) Department, Government of Rajasthan, provided for grant of bonus marks based on experience, forming part of the merit criteria, and the petitioner, being eligible, applied within time though initially under the General category due to delay in obtaining Economically Weaker Sections (hereinafter referred to as “EWS”) certificate, later correcting category to EWS through the grievance portal opened vide notice dated 12.09.2023; pursuant to court-directed

processes, the petitioners were called for document verification in September 2023 under the EWS category, reflecting acceptance of their candidature, and were subsequently included and selected in the final merit list dated 06.12.2024 for Nursing Officer (Non-Scheduled Area) under the EWS-Female category, thereby creating a legitimate expectation of appointment; however, a subsequent notice dated 20.12.2024 withheld results of 1013 candidates including the petitioner on the ground of verification of caste certificate, leading to rejection orders which are alleged to be arbitrary, discriminatory, and contrary to settled law including the judgment in Aman Kumari, resulting in denial of appointment and violation of fundamental rights, and after exhausting representation without relief, the petitioner has invoked the writ jurisdiction of the High Court under Article 226 of the Constitution of India seeking appointment with consequential benefits.

3. Learned counsel for the petitioner submits that the respondents have put remarks against the name of the petitioner that "As per the marriage certificates of the candidates, they are originally residents of the State of Haryana, and the EWS certificates have been submitted in the names of their husbands; however, in light of order passed in Writ Petition No.240/2020, an EWS certificate is required to be issued in the name of the candidate's father, and therefore, the petitioner is not entitled to avail the benefit of reservation under the EWS category."

4. Learned counsel for the petitioner submits that the petitioner had submitted her online application forms for the post of Nursing Officer (NTSP); however, there was a delay in issuance of her EWS certificate by the concerned authorities. He further submits that,

although the petitioner belong to the EWS category, she has been denied the benefit of reservation under the said category on the ground that she is originally residents of the State of Haryana and, after marriage, are now residents of the State of Rajasthan; therefore, she is entitled to the benefit of reservation under the EWS category.

5. Learned counsel for the petitioner submits that the issue involved in the present writ petition is squarely covered by judgment dated 11.01.2026 passed by the Hon'ble Division Bench of this Court in ***State of Rajasthan & Ors. Vs. Uganta Kanwar : D.B. Special Appeal Writ No.365/2025*** & other connected appeals.

6. Learned counsel for the respondents submits that since all the petitioner is originally residents of Haryana, she is not entitled to the benefit of reservation under the EWS category; however, he is unable to refute that the issue involved in the present writ petition is covered by the judgment in Uganta Kanwar (*supra*).

7. This Court finds that the Hon'ble Division Bench in the case of ***Uganta Kanwar (supra)***, has held as under:-

“20. Identical criteria has been incorporated by the State Government, which is clear from the perusal of the notification dated 20.10.2019 (quoted *supra*), wherein the criteria for determining as to whether the persons belongs to EWS category has been fixed, as person having gross annual income below rupees eight lakhs and for the purpose of determining the property, it has further been clarified that the property belonging to parents and siblings as well as spouse and children shall also be included. Thus, a combined analysis of the 103rd Constitution amendment as well as the criteria fixed for determination of EWS will reveal that irrespective of the migration, the status of the candidate is to be determined based upon the income of the family and the family includes not only

parents but the spouse also, meaning thereby that if a person migrates from one State to another post marriage, then the benefit of EWS can be attained by him, in case the total income of the family including the income of spouse, children, parents and siblings is below the threshold of rupees eight lakhs. Rather, the State Government themselves clarified by way of issuing the circular dated 10.02.2020 wherein, in spite of migration from one State to another, the income certificate shall be issued for determining as to whether the person would qualify as EWS or not. However, the income of the person concerned earning in the earlier State prior to migration was also to be kept in mind for determining whether he/she falls into the definition of EWS or not.

21. As far as the judgments relied upon by the learned counsel for the respondent are concerned i.e. in the case of Ranjana Kumari (supra), Action Committee (supra) or by the Constitution Bench of Apex Court in Marri Chandra Shekhar Rao (supra), the same pertains to reservation being granted to the persons belonging to socially and educationally backward class of citizens, more particularly SC & ST categories, wherein a specific list has been provided for determining who shall belong to SC/ST by way of Article 341 and 342 under the Constitution. The consideration was that a person may be belonging to a category of SC/ST in one particular State by looking to circumstances prevailing in that State, but in the migrated state, same caste or tribe may not be considered as a SC/ST correspondingly, and even if considered, the circumstances for consideration are totally different. The consideration by the Hon'ble Apex Court was, particularly, with regard to the fact that upon migration, the concerned person's special right, which was attributed to him or granted to him in the original State or part thereof, would prevail. The Court also considered that the expression "in relation to that State", would become nugatory, if in all the States special privileges or the rights granted to SC/ST are carried forward. It was also observed that the same would be inconsistent with the whole purpose of the scheme of reservation. Based upon the same, the Hon'ble Apex Court held that the benefit of the reservation cannot be extended post migration as stated (supra). The same was pertaining to the reservation granted based upon the social and educational backwardness, however, as far as EWS is concerned, the same has been treated as separate category by the Hon'ble Apex Court itself in Janhit Abhiyan vs. Union of India' (supra), qua which there is no identical provision like Article 341 and 342.

Thus, the judgments relied upon by the learned counsel for the respondent have got no application as far as the case in hand is concerned.

22. In almost identical issue, with regard to non-grant of benefit of being a resident of Tribal Sub-Plan (TSP) to a lady who was married to a person residing within Tribal Sub-Plan, came up for consideration before the Hon'ble Single Bench of this Court, in the case of Smt. Twarita Gehlot v. State of Rajasthan & Ors. in S.B. Civil Writ Petition No.15540/2007 wherein, while dealing with the issue of migration of a married lady who has come to reside with her husband who is already a resident of a TSP area, it was held that she cannot be denied the benefit that are available to the TSP area in question. The above mentioned judgment was challenged in appeal, wherein the appeal came to be disposed of by way of order dated 04.01.2020 in D.B. Spl. App. Writ No.576/2018 (State of Rajasthan & Ors. V. Smt. Twarita Gehlot), in view of the fact that the State Government itself has amended the definition of candidate of Tribal Sub-Plan area, by way of notification dated 21.10.2019 extending the benefit of reservation to women marrying a resident of TSP area with effect from 16.06.2013.

23. This Court finds that the judgment passed in the case of Smt. Twarit Gehlot (supra) is applicable to the present case also as the reservation for Economic Weaker Sections cannot be denied to a person simply on the ground of migration from one State to another, more particularly when while calculating the total income of the family for the purpose of determining the status of Economic Weaker Sections i.e. the maximum total income of rupees eight lakhs, the income of the parents and the spouse as well as children and the siblings is to be considered.

24. Accordingly, the appeals do not call for interference and are hereby dismissed. The issue of migration as well as participation in pursuant to the advertisement and post that laying a challenge to the condition of the advertisement has rightly been dealt with by the Hon'ble Single Judge in case of Aman Kumari's (supra). The judgment passed by the Hon'ble Single Judge in the case of Aman Kumari's (supra) is held to be correct and upheld.

25. All the pending applications are also disposed of."

8. In view of the undisputed position that the respondents have not denied that the petitioner, after her marriage, is bona fide residents of the State of Rajasthan, this Court is of the considered

opinion that the controversy involved in the present writ petition stands squarely covered by the judgment, *ibid*. Consequently, any denial of the benefit of reservation to the petitioner under the EWS category would be arbitrary, unjustified, and contrary to the settled legal position.

9. Accordingly, the writ petition deserves to be and is hereby allowed. The respondents are directed to extend to the petitioner the benefit of reservation under the EWS category and to accord them appointments on the respective posts for which they have been duly selected, within a period of 20 days from the date of receipt of a certified copy of this order, subject to her fulfilling all other eligibility conditions.

10. All pending application(s), if any, shall stand disposed of.

(KULDEEP MATHUR),J

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