

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

S.B. Civil Writ Petition No. 9934/2026

Smt. Leela Devi W/o Bhagchand Kumawat, Aged About 38 Years,
R/o Mushi, Tehsil Baneda, District Bhilwara (Rajasthan).

----Petitioner

Versus

1. Electoral Registration Officer, (Sub-Divisional Officer),
Baneda, District Bhilwara.
2. District Election Officer (District Collector), Bhilwara
(Rajasthan).
3. State Election Commission, Rajasthan Through Chief
Electoral Officer, Room No. 5213, Main Building,
Secretariat, Jaipur.

----Respondents

For Petitioner(s) : Mr. Nikhil Ajmera

For Respondent(s) :

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

07/05/2026

1. By way of the present civil writ petition under Article 226 of the Constitution of India, the petitioner has sought following reliefs :-

- “i. That the writ petition may kindly be allowed and the Impugned Order dated 24.03.2026 (Annexure-3) may kindly be quashed and set aside and the matter may kindly be remanded to be decided on merits considering the appeal (Annexure-2) as if the same has been filed under Rule 21, the Rules of 1996.*
- ii. Any other writ, direction or order which is deemed to be just and proper in the circumstances of this case may kindly be passed in favour of the petitioner.*
- iii. Costs may kindly be awarded in favour of petitioner.”*

2. Learned counsel for the petitioner submits that, during the Panchayati Raj Institutions Elections, 2026 programme, the petitioner had submitted an application seeking correction of the electoral roll, wherein she had been erroneously shown as a resident of Ward No. 05, Gram Panchayat Jhantal, despite the fact that she was residing at Kamharo Ka Kheda, Gram Panchayat Mushi. Pursuant to the directions issued by respondent No.1, the

Assistant Electoral Registration Officer (Tehsildar), Baneda conducted an investigation. In the investigation report, it was concluded that the petitioner was a resident of Amargarh, Gram Panchayat Jhantal. Consequently, the petitioner's application came to be rejected vide order dated 20.02.2026 passed by respondent No. 1 – Electoral Registration Officer (Sub-Divisional Officer), Baneda, District Bhilwara.

3. Aggrieved by the order dated 20.02.2026, the petitioner preferred an appeal before respondent No. 2 – District Election Officer (District Collector), Bhilwara. However, it is pertinent to note that, owing to inadvertence, the appeal was filed by referring to Rule 23 of the Registration of Electors Rules, 1960 instead of Rule 21 of the Rajasthan Panchayati Raj (Election) Rules, 1994. After hearing the matter at the admission stage, it was observed that the appeal was not preferred under Rule 21 of the Rajasthan Panchayati Raj (Election) Rules, 1994. Since the appeal had been presented under Rule 23 of the Registration of Electors Rules, 1960, the same was held to be not maintainable and was accordingly dismissed vide order dated 24.03.2026.

4. Learned counsel for the petitioner further submits that mere invocation of an incorrect statutory provision cannot deprive the petitioner of her substantive rights. In support of the said contention, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Pruthvirajsinh Nodhubha Jadeja (D) through LRs. Versus Jayeshkumar Chhakaddas Shah & Ors.*** reported in ***2019 0 Supreme (SC) 1110***. The relevant Para 8 of the said judgment reads as under:-

“8. It is well settled law that mere non-mentioning of an incorrect provision is not fatal to the application if the power to pass such an order is available with the court.”

5. After arguing the matter at some length, learned counsel for the petitioner submits that he does not wish to press the present writ petition. However, he seeks liberty for the petitioner to file a fresh appeal/application before respondent No. 2 – District Election Officer (District Collector), Bhilwara under Rule 21 of the Rajasthan Panchayati Raj (Election) Rules, 1994. It is further prayed that, if such appeal/application is filed, the same may be considered and decided without taking into account the period of limitation.

6. Accordingly, the present writ petition stands disposed of with liberty as prayed for.

7. However, taking into account the facts and circumstances of the present case and considering that the petitioner had been bonafidely pursuing the remedy before the competent forum, it is directed that in the event the petitioner files an appeal under Rule 21 of the Rajasthan Panchayati Raj (Election) Rules, 1994 along with an application seeking condonation of delay, the delay in filing the appeal shall stand condoned and the respondent No. 2 – District Election Officer (District Collector), Bhilwara shall proceed to consider and decide the appeal on merits in accordance with law.

8. The stay application and all other pending application(s), if any, also stand disposed of.

(MUKESH RAJPUROHIT),J