

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

S.B. Civil Writ Petition No. 12413/2025

Amar Deep Sharma S/o Shri Devki Nandan Sharma, Aged About 38 Years, R/o Present Place Of Posting Government Upper Primary School, Banwaron Ki Dhani Pur, Rajeev Nagar, District Jalore, Rajasthan.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Secretary, Department Of Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Secondary Education, Directorate Bikaner, Rajasthan.
3. State Project Director And Commissioner, Rajasthan School Shiksha Parishad, Jaipur.
4. Deputy Director (Mahatma Gandhi School), Secondary Education Rajasthan, Bikaner, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. V.L.S. Rajpurohit.

For Respondent(s) : Mr. N.K. Mehta, AGC.

HON'BLE DR. JUSTICE NUPUR BHATI
Order

10/02/2026

1. The instant writ petition has been filed by the petitioner under Article 226 of the Constitution of India claiming following relief(s):

"It is, therefore, most humbly and respectfully prayed that the writ petition may kindly be allowed and by issuing an appropriate writ, order or direction:

- i. By an appropriate writ order or direction, the point no.7 & 8 both important instructions given in admit card (Annex.3) may kindly be quashed and set-aside.
- ii. By an appropriate writ order or direction, the respondent may kindly be directed to consider the candidature of the petitioner for the post of Teacher Grade-III Level-I and grant appointment on the post of Teacher Grade-III Level-I in pursuance to notification dated 11.07.2024 (Annex.-1) with all consequential benefits.
- iii. Any other appropriate relief which this Hon'ble High Court deems just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner.

iv. Cost of this writ petition may also kindly be passed in favour of the petitioner.”

2. Factual prism obtaining in the present case is that petitioner is a Teacher Grade-III Level-I, presently posted at the Government Upper Primary School, Banwaron ki Dhani Pur, Rajeev Nagar, District Jalore, Rajasthan, and a resident of District Bundi. Pursuant to notification dated 11.07.2024 (Annex.1) issued by the respondent No.2, applications were invited for filling vacancies of Teacher Grade-III Level-I in Mahatma Gandhi Government (English Medium) School and Swami Vivekanand Government Adarsh School (English Medium).

3. Selection hinged on a written examination requiring a minimum qualifying score of 40 out of 100 marks, with negative marking of 1/4 marks per incorrect answer. Being eligible, the petitioner applied for Districts Bundi, Baran, Bhilwara, Jaipur, and Chittorgarh. He was issued an admit card and appeared for the examination on 25.08.2024 as scheduled, ultimately securing 51 marks upon result declaration. Notably, points 7 and 8, requiring darkening of circles in the question booklet, were inserted mid-process, absent from the original notification.

4. Vide press note dated 26.06.2025 (Annex.6), qualified candidates were directed to submit district preferences via the Shala Darpan Portal for available vacancies. District and school allotments followed on 30.06.2025 (Annex.7), with joining instructions. The petitioner attempted compliance but encountered unavailability of options, unlike candidates scoring lower marks. Upon departmental inquiry, he learned his candidature had been cancelled under point 8 of the admit card instructions for failing to darken any of the five circles in more than 10% of the question

booklet questions, as evidenced by the annexed OMR sheet (Annex.5).

5. Aggrieved by this differential treatment and procedural irregularity, the petitioner invokes the extraordinary jurisdiction of this Court by way of filing the present writ petition.

6. Counsel for the petitioner submits that respondents, at the time of issuing advertisement dated 11.07.2024 (Annex.1) had laid down the selection criteria; wherein, a note was mentioned that for each wrong answer, 1/4th marks would be deducted; whereas, at the time of issuing Admit Card (Annex.3), the respondents had changed the rules of the game as it bears instructions that if a candidate is not attempting a particular question, then Circle (E) is required to be darken and in case none of the five circles is darkened, then, 1/4th marks shall be deducted, along with the instruction that if none of the five circles is darken by a candidate in more than 10% questions, then that candidate would be disqualified. He submits that the petitioner has acquired 51 marks as per the result generated by the respondents, however, a candidate having lower marks than the petitioner has been declared successful and has been allotted respective school. He submits that the petitioner was disqualified wholly on the ground that petitioner has not darken any of the five circles in more than 10% questions. He also submits that in the advertisement dated 11.07.2024 (Annex.1), the respondents had not laid down such condition(s) and thus, further addition of the conditions in the admit card amounts to changing the rules of the game. He further submits that the admit card was issued a date prior to the scheduled date of examination on account of which,

the petitioner could not prepare himself mentally to fulfill the additional instruction laid down in the admit card.

7. In support of his contentions, counsel representing the petitioner places reliance upon the order dated 14.12.2021 passed by the Coordinate Bench of this Court in the case of **SBCWP No.7352/2021** entitled "**Aashish Kumar v. The State of Rajasthan & Ors.** (along with other connected matters)".

8. On the other hand, Mr. N.K. Mehta, learned AGC, opposed the submissions advanced by the petitioner's counsel and submits that the criteria for selection has not been changed and only an additional instruction has been given in the admit card directing candidates to darken any of the five circles in the OMR Sheet and in case the same is not found darkened to the extent of 10% questions, then, the candidate would be disqualified. He further submits that the admit card was duly issued to the petitioner well in advance of the date of written examination accompanied by a note specifying that comprehensive instructions were prominently displayed on both: the question paper and the OMR sheet. Once these instructions stood clearly notified prior to the examination, nothing precluded the petitioner from adhering to same.

9. I have heard learned counsel for the parties and have perused the material available on record.

10. This Court finds that in the Advertisement dated 11.07.2024 (Annex.1), the selection criteria indicates that for every wrong answer or more than one answer attempted in the question paper booklet, 1/4th marks would be deducted apart from the fact that the question paper would be in the form of multiple option question paper. The said condition is reproduced hereunder:

“XXXXXXX

नोट :- 1. समस्त प्रश्न बहुविकल्पी प्रकार के होंगे।

2. प्रत्येक गलत उत्तर अथवा एक से अधिक उत्तर के ¼ अंक काटे जाएंगे।

XXXXXXX”

11. Admittedly, petitioner was issued an admit card prior to the date of commencement of the examination which is reflected as 25.08.2024 along with instructions that the candidates are required to darken Circle (E) in case they do not attempt the question and further, if none of the five circles are darkened, 1/4th marks would be deducted along with the condition that the candidates who do not darken any of the five circles in more than 10% questions, would stand disqualified. The said instructions are reproduced hereunder:

“Important Instructions

XXXXXXX

7. If you are not attempting a question then you have to darken the circle E; if none of the five circles (bubble) is darkened, ¼ marks shall be deducted.

8. A candidate who has not darkened any of the five circles in more the 10% questions shall be disqualified.

XXXXXXX”

12. As per the submissions of the petitioner's counsel as well as the respondents' counsel, the petitioner has been disqualified on the ground that, after evaluation of the OMR Sheet, it was found that the petitioner did not darken any of the five circles in more than 10% of the questions. The contention of the petitioner's counsel that, on account of a change in the rules of the game, the petitioner stood disqualified, and further that the respondents could not change the rules of the game in the midst of the selection process, does not stand to scrutiny. This is for the reason that the selection criteria, as well as the qualifications prescribed by the respondents for the purpose of appointment to the post of

Teacher Grade-III Level-I, have not been changed in the midst of the selection process.

13. Furthermore, it is only for the purpose of specifying the manner in which the candidate is required to attempt the questions reflected in the OMR Sheet that the instruction was issued by the respondents in the admit card, and that too prior to the scheduled date of the written examination. Counsel for the petitioner is not in a position to demonstrate what precluded the petitioner or what prejudice would have caused to the petitioner from darkening any of the five circles for the questions that he did not attempt, coupled with the fact that it was known to the petitioner that, in case he did not darken five circles for the unattempted questions, not only would 1/4th marks be deducted, but also, if the questions were found to be more than 10%, he would stand disqualified. Knowing about the said instructions, the petitioner still chose not to darken five circles in more than 10% of the questions. Also, the instructions nos.7 and 8 in the Admit Card were uniform for all the candidates and thus, the yardstick in the form of instruction was same for the candidates. The respondent while putting these instructions in the Admit Card have not changed the level playing field for the petitioner and other candidates causing prejudice to them.

14. It is further observed that the petitioner has laid a challenge to Instructions Nos.7 and 8 mentioned in the Admit Card, which reflects that the petitioner, with open eyes, participated in the selection process while accepting the said instructions. It is only after he was declared disqualified in the selection process based on Conditions Nos. 7 and 8 that the petitioner chose to challenge

the same, which is not permissible as per the law laid down by Hon'ble Supreme Court in the case of **Tajvir Singh Sodhi & Ors. v. The State of Jammu and Kashmir & Ors.** decided on 28.03.2023 reported in **(2023) INSC 309** as well as in the case of **HC Pradeep Kumar Rai and Ors. v. Dinesh Kumar Pandey and Ors.** decided on 11.05.2015 reported in **(2015) 11 SCC 493**. Relevant paras of the aforesaid decisions rendered by the Hon'ble Supreme Court, are reproduced hereunder:

In the case of **Tajvir Singh Sodhi (supra)**:

"xxxxxx

13.1. It is therefore trite that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. In other words, simply because the result of the selection process is not palatable to a candidate, he cannot allege that the process of interview was unfair or that there was some lacuna in the process. Therefore, we find that the writ petitioners in these cases, could not have questioned before a Court of law, the rationale behind recasting the selection criteria, as they willingly took part in the selection process even after the criteria had been so recast. Their candidature was not withdrawn in light of the amended criteria. A challenge was thrown against the same only after they had been declared unsuccessful in the selection process, at which stage, the challenge ought not to have been entertained in light of the principle of waiver and acquiescence."

In the case of **HC Pradeep Kumar Rai (supra)**:

"xxxxxx

16. Moreover, we would concur with the Division Bench on one more point that the Appellants had participated in the process of interview and not challenged it till the results were declared. There was a gap of almost four months between the interview and declaration of result. However, the Appellants did not challenge it at that time. Thus, it appears that only when the Appellants found themselves to be unsuccessful, they challenged the interview. This cannot be allowed. The candidates cannot approbate and reprobate at the same time. Either the candidates should not have participated in the interview and challenged the procedure or they should have challenged immediately after the interviews were conducted."

15. This Court observes that the law is well settled that a candidate cannot be allowed to approbate and reprobate at the same time. Once a candidate knowingly accepts the terms of the selection process and participates in it without raising any objection, he cannot later turn around and challenge those very terms after being declared unsuccessful. Such a challenge, raised only after an adverse result, is not permissible in law and is contrary to the principles laid down by the Hon'ble Supreme Court in **Tajvir Singh Sodhi** (supra) and **HC Pradeep Kumar Rai** (supra).

16. The reliance placed by counsel for the petitioner on the case of **Aashish Kumar (supra)** is also not applicable in the present case as the same pertains to recruitment on the post of constable where the dispute turned on a subsequent amendment to Rule 14 of the Rajasthan Police Subordinate Services Rules, 1989, which attempted to take away an existing relaxation in minimum height for tribal area candidates during an ongoing selection and the Coordinate Bench of this Court held that such an amendment could not apply retrospectively to the pending recruitment.

17. As an upshot of the aforesaid discussions made, the instant writ petition is accordingly dismissed. Instructions Nos.7 and 8 mentioned in the Admit Card (Annex.3), are justified and do not suffer from any illegality or any infirmity whatsoever, warranting interference.

18. Stay application as well as all other pending application(s), if any, also stand dismissed.

(DR. NUPUR BHATI),J

43-/Devesh Thanvi/-