

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

D.B. Special Appeal Writ No. 94/2020

1. The State Of Rajasthan, Through The Secretary,  
Department Of Home Affairs Government Of Rajasthan,  
Jaipur.
2. The Director General Of Police, Head Quarter, Jaipur.
3. The Superintendent Of Police, Jhalawar, District Jhalawar  
(Raj.).
4. The Inspector General Of Police Cum Chairman Selection  
Board Of Constable Recruitment, Kota (Raj.).

----Appellants

Versus

Jagdish Meghwal S/o Lal Chand Meghwal, Aged About 25 Years,  
B/c Meghwal, R/o Village Mata Ji Ka Mohalla, V/p Moondhla,  
Tehsil Khanpur, Dist. Jhalawar, Rajasthan.

----Respondent

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| For Appellant(s)  | : | Mr. B.L. Bhati, AAG |
| For Respondent(s) | : | --                  |

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**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI  
HON'BLE DR. JUSTICE NUPUR BHATI**

**Order**

**20/05/2026**

1. Despite service, none has put in appearance on behalf of the respondent.
2. Learned counsel for the appellants submits that the issue involved in the present case has been decided by the learned Single Bench of this Court vide order dated 05.12.2018 passed in ***S.B. Civil Writ Petition No.18601/2018 (Jagdish Meghwal V/s. State of Rajasthan & Ors.)***, solely on the basis of judgment rendered in ***Revant Ram Meghwal & Ors. V/s. State***

**of Rajasthan & Ors. in S.B. Civil Writ Petition No.13731/2018** and other connected matters.

2.1. He further submits that the judgment of learned Single Bench in *Revant Ram Meghwal (supra)* has been reversed by the learned Division Bench of this Court in **State of Rajasthan & Ors. Vs. Revant Ram Meghwal & Ors. (D.B. Spl. Appl. Writ No.124/2019)**, pronounced on 31.07.2019, the operative portion of which reads as under:-

"10. In a recent decision of this Court dealing with a similar situation, *where re-test had not been permitted, but was granted in some other venue a learned Single Judge had held that the refusal to grant a re-test was discriminatory. Setting aside the Single Judge's order, this court held, after quoting observations in Shravan Kumar Choudhary vs. The State of Rajasthan & Ors. (D.B. Spl. Appl. Writ No. 154/2019 Decided On: 22.05.2019)- which had dealt with precisely the same issue concerning a direction to grant re-test because stadium conditions were bad, as follows:*

"9. *Granting a second opportunity or re-test, under the circumstances of this case, in the court's opinion, would not be a justified exercise of judicial review powers. No doubt, the petitioners had 12 hours notice; however all others (including the 23 who participated successfully and the 90 odd others who took part) also had short notice. Furthermore, to compete in a physical efficiency test, it is not the availability of a few days or even a couple of weeks, that is important. Testing endurance parameters, is one of the important objectives of the PET, which includes a 5 km run to be completed within a stipulated time. It cannot reasonably be argued that such endurance or stamina can be built overnight or in a few days; what is essential to do so, is constant and consistent practice. If one keeps these aspects in mind, it cannot be said that the writ petitioners were placed under such tremendous disadvantage as to be the reason why they could not clear the PET.*

10. Another reason, which this court has to take note of is that among the 77 odd unsuccessful candidates, only a handful have come forward, claiming prejudice. Granting the facility of a re-test to these candidates who approached the court, in the opinion of the court would mean at one stroke denying similar treatment to others who have no grievance, and more importantly creating an entirely different set of circumstances, from the one under which the rest of the candidates participated, including those who successfully cleared the PET. This aspect was highlighted recently by this court in the context of recruitment to the post of police constable, where the complaint was that the weather conditions for the 5 km run were not conducive, on account of rain, resulting in the candidates' inability to complete the PET successfully. A Division Bench of this court, held in *Shravan Kumar Choudhary vs. The State of Rajasthan & Ors.* (D.B. Spl. Appl. Writ No. 154/2019 Decided On: 22.05.2019) as follows:

"7. Quite apart from the ground on which the learned Single Judge dismissed the writ petition, i.e. delay, this Court is not inclined to interfere with the selection process or the impugned order. When a complaint such as the present one with respect to less than ideal conditions or poor conditions in which candidates are made to perform take up PET is confronted by the Court, it needs to carefully analyse the facts since intervention in judicial review has larger repercussions which affect non-parties.

8. The state has placed material on record to suggest that whatever be the circumstances, rain moisture or ideal track conditions, of the total number of candidates who participated on the basis of prevailing conditions, 45.42 qualified. The additional affidavit (concededly which is not part of the present appeal record as it is a part of the record in D.B. Civil Appeal No. 228/19) shows that the variation between the days like the one when the appellant was made to participate and other days when there was no rain, was not so significant as to result in arbitrariness. The chart which is produced alongwith the said additional affidavit shows that on an average on the best days - when weather conditions were normal, the number of qualified candidates were in the range of 63-64%; the lowest in such range was about 25%. In between, there were days on which the conditions were not ideal as in many venues it appeared to have rained. Having regard to all these factors, it cannot be said that the

*conditions under which the present appellant was made to participate in the PET were so poor as to deny him a level playing field. What is a matter of record is that 579 candidates did participate of whom 263 were successful and did qualify. In these circumstances, unless the result shows an extremely startling result where it can be discerned plainly that no candidate or a very insignificant number of candidates could qualify, the Courts should be very circumspect in returning a finding of arbitrariness.*

*9. The judgment of the Allahabad High Court, in the opinion of the Court, is not applicable. It is primarily based on the reasoning that change in weather conditions result in the change in the rules of the game i.e. introducing rules later after the commencement of the recruitment process. The judgment of the Allahabad High Court, with respect, in the opinion of the court, does not correctly lay down the law.*

*10. One more consideration persuades this Court to decline relief. It is that out of the 579 who participates, some were successful and some were not. Yet all of them did participate and accepted the conditions, as it were. Permitting the petitioner/appellant or any other candidate thereafter to take a re-test by directing the State to hold a fresh PET would itself be an unfair procedure as it would not only allow a few candidates who approach the Court to have a second shot or attempt, or a second innings as it were, but also create an unfair advantage inasmuch as the conditions would be entirely different and perhaps favorable to the candidate. This would result in two yardsticks, being injected into (one whereby all others accept participate and are assessed under poor conditions, and the second whereby those who approach the Court are given a second chance, resulting in their competing in favorable conditions), in the same selection process, which is inherently untenable and contrary to Article 14 and cannot be permitted."*

*11. Even in the re-test (which was conducted with sufficient notice, in terms of the orders of the single judge) only a few (and not all) candidates managed to clear the PET. Upholding the grant of a second opportunity of PET carried out in most favourable circumstances, to only a few, therefore in the opinion of the court, was not justified. Granting relief also on the*

*ground that there were vacancies which could be filled with the writ petitioners or other candidates, in the opinion of the court would mean that the executive government's choice of selecting from other candidates, who have since become eligible, is completely curtailed; the pool from which selection can be resorted to might and would be wider; however, the impugned order restricts it to the petitioners."*

*11. This Court is of the opinion that the same reasoning would apply with greater force and rigor in this case, as well. Out of the 151 candidates who in fact participated in the PET, nearly 55% i.e. 82 qualified. Therefore, it could not be said that the facts showed manifest unfairness or arbitrariness in the case of the petitioners. After all, they like others (both successful and unsuccessful candidates) participated; they could not qualify. But a sizeable number of the participants qualified. Most of those who did not qualify did not approach the court. More number of candidates qualified and passed the PET, than those who did not. If one keeps all these facts in mind, the directions issued in the impugned judgment cannot be sustained.*

*12. For the foregoing reasons, the present appeal has to succeed; it is allowed. All pending applications are disposed of."*

3. Upon consideration of the order of learned Division Bench, this Court is of the opinion that the same reasoning would apply to the present case as well.

4. Accordingly, this special appeal (writ) is allowed in the same terms as in **Revant Ram Meghwal** (*supra*) in D.B. Spl. Appl. Writ No.124/2019.

**(DR. NUPUR BHATI),J**

**(DR. PUSHPENDRA SINGH BHATI),J**