

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

S.B. Civil Writ Petition No. 15095/2026

CNR: RJHC010690102026

URN: CW / 27374U / 2026

Ramila Katara W/o Sh. Moolchand Katara, Aged About 48 Years,
R/o Udaipur Link Road, Shakti Colony, Piplod, District Banswara,
At Present Gram Vikash Adhikari At Panchayat Samiti, Choti
Sarwan, District Banswara.

-----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary Rural And Panchayati Raj Department Govt Of Rajasthan, Secretariat, Jaipur.
2. The Chief Executive Officer, Zila Parishad Banswara, District Banswara.
3. The Block Development Officer, Panchayat Samiti Choti Sarwan, District Banswara.

-----Respondents

For Petitioner(s) : Mr. Devendra Sanwalot.

For Respondent(s) : Mr. Kuldeep Vaishnav, Dy.G.C.

HON'BLE DR. JUSTICE NUPUR BHATI

Order

16/07/2026

1. By way of filing the present writ petition, the petitioner, who is working as Village Development Officer, has assailed the validity of order dated 10.07.2026 (Annex.1) issued by respondent – Department, whereby the petitioner has been transferred from Panchayat Samiti- Choti Sarwan, District Banswara to Panchayat Samiti- Garhi, District Banswara.

2. Mr. Kuldeep Vaishnav, learned Dy. GC appears in receipt of advance copy of writ petition.

3. Learned counsel for the petitioner submits that the controversy involved in the present writ petition is no longer res integra and stands concluded by a Coordinate Bench of this Court in a batch of writ petitions led by **S.B. Civil Writ Petition No. 11358/2021 : Kishan Saini v. State of Rajasthan & Ors.**, decided on 09.09.2021. He further submits that even if the Chief Executive Officer is assumed to be competent to effect transfers in the absence of the District Establishment Committee, such transfer cannot be made without obtaining the consent of the Block Development Officers of both the Panchayat Samiti(s). Learned counsel for the petitioner submits that, since no such consent has been obtained in the present case, the impugned transfer order is contrary to Section 89(8)(i) and (ii) of the Rajasthan Panchayati Raj Act, 1994 ('Act of 1994') and Rule 289 of the Rajasthan Panchayati Raj Rules, 1996 ('Rules of 1996') and deserves to be quashed and set aside.

4. Learned counsel appearing for the respondents submits that the order impugned has rightly been passed, however, is not in a position to dispute the submissions advanced on behalf of the petitioner and that the controversy raised in the present writ petition is squarely covered by the decision of this Court in Kishan Saini (supra).

5. I have given my thoughtful consideration to the submissions made by counsel for the parties and have perused the material on record.

6. The issue raised in the present writ petition is no longer res integra and stands covered by the decision rendered in Kishan Saini (supra), wherein a Coordinate Bench of this Court held that

even if the doctrine of necessity is invoked and the Chief Executive Officer, in the absence of constitution of the District Establishment Committee, is assumed to be competent to effect transfers, he would still be required to obtain the consent of the Block Development Officers of both the Panchayat Samiti(s), namely, the Panchayat Samiti from which the employee is transferred and the Panchayat Samiti where the employee is sought to be posted. The relevant portion of the order passed in the case of Kishan Saini (supra) reads as under:-

“8. The impugned transfer orders have been passed by the Chief Executive Officer, whereas the power to recommend or initiate transfer, as per the provisions noted above, vests in the District Establishment Committee. As per the statutory provisions, the Chief Executive Officer can transfer an employee only if the Administrator and Establishment Committee or Standing Committee does not carry out the order of the State Government, as provided in Rule 289(3) of the Rules of 1996.

9. The above contention of Mr. Upadhyay is untenable in law. This Court is of the firm view that in absence of constitution of Gram Panchayat, Panchayat Samiti and Zila Parishad, if any transfer is to be made, the same can be made only by the State Government.

10. Even if the doctrine of the necessity is invoked and the Chief Executive Officer, in absence of constitution of District Establishment Committee, is held competent to effect transfers, he will have to take consent of Block Development Officer of both the Panchayat Samities. Since the consent of the Block Development Officer of the place of posting and place of proposed transfer has not been taken, the transfer order under scrutiny is clearly contrary to the provisions contained in Section 89(8)(i) and (ii) of the Act of 1994 and Rule 289 of the Rules of 1996.

11. The law on this subject is well settled, as is evident from the judgments cited by Mr. Bhalaria.

12. Consequently, all these writ petitions are allowed. Impugned transfer orders dated 28.07.2021 and 14.08.2021, qua the petitioners, are hereby quashed.

13. Needless to observe that the respondents shall be free to pass fresh transfer orders strictly in accordance with law.

14. The stay applications also stand disposed of accordingly.”

7. In the present case also, the petitioner has questioned the competence of the authority issuing the impugned transfer order

and has asserted non-compliance with the mandatory statutory requirements. Since the controversy is admittedly covered by the judgment in Kishan Saini (supra), and no distinguishing feature has been pointed out on behalf of the respondents, this Court finds no reason to take a different view.

8. In view of the above discussion, this Court is of the considered opinion that the impugned order dated 10.07.2026 cannot be sustained in the eye of law, inasmuch as the Chief Executive Officer, while passing the impugned order, did not obtain the requisite consent of the Block Development Officers of both the Panchayat Samiti(s). The impugned transfer order, therefore, deserves to be quashed, with liberty to the respondents to pass a fresh order strictly in accordance with law and after following the procedure prescribed under the relevant statutory provisions.

9. Consequently, the writ petition is allowed. The impugned transfer order dated 10.07.2026 (Annex.1), whereby the petitioner has been transferred from Panchayat Samiti- Choti Sarwan, District Banswara to Panchayat Samiti- Garhi, District Banswara, is hereby quashed and set aside. It is, however, made clear that the respondents shall remain at liberty to pass a fresh order, if so required, strictly in accordance with law. Stay Petition and pending application(s), if any, also stand disposed of.

(DR. NUPUR BHATI),J