



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

S.B. Civil Writ Petition No. 16110/2021

Suman W/o Late Shri Vishan, Aged About 45 Years, Resident Of  
Pahadeshwar Nagar, Kabir Nagar Mahadev Colony, Jodhpur  
(Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department  
Of Local Self Government, Secretariat, Jaipur.
2. The Commissioner, Municipal Corporation, Jodhpur,  
Rajasthan.

----Respondents

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| For Petitioner(s) | : | Mr. Hemant Singh Solanki                         |
| For Respondent(s) | : | Ms. Darshita Pungaliya for Mr. Suniel<br>Purohit |

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

**Order**

**05/05/2026**

1. The petitioner has filed the instant writ petition seeking  
following relief(s):

"It is, therefore, respectfully prayed that this writ  
petition may kindly be accepted and allowed and;

a). by an appropriate writ, order or direction the  
order dated 29.03.2019 (Annexure-4) may be quashed  
and set aside.

b). by an appropriate writ, order or direction the  
respondents may be directed to reinstate the petitioner in  
service with all consequential benefits.

c). Any other order or direction, which this Hon'ble  
Court deemed just and proper be passed in favour of  
petitioner;

d). Costs of this petition may kindly be allowed to  
the petitioner."

2. Briefly stated, the facts of the case are that pursuant to  
recruitment process initiated by the respondents for the post of  
Safai Employees vide advertisement dated 13.04.2018 (Annex.1)

under the Rajasthan Municipalities (Safar Employees Service) Rules, 2012 (for brevity, hereafter referred to as 'Rules of 2012'), the petitioner, being aspirant, applied for the said post and in the selection process, the petitioner's candidature was considered and he was offered letter of appointment on 01.09.2018 (Annex.2). However, the respondent No.2 vide order dated 29.03.2019 (Annex.4) cancelled the petitioner's appointment on the ground that the petitioner submitted false affidavit of having more than two children after 01.06.2002 while concealing said material fact. The petitioner has thus preferred the instant writ petition challenging the said order dated 29.03.2019 (Annex.4) and a direction to respondents afford him appointment on the post of Safai Employee.

3. Learned counsel for the petitioner submits that the respondents vide the order impugned dated 29.03.2019 (Annex.4) have declared the petitioner ineligible for appointment on the post of Safai Employee on the ground that the petitioner is having more than two living children after the cut off date i.e. 01.06.2002 and also that the petitioner concealed the fact of having more than two children and furnished false affidavit in this regard before the respondents and, therefore, the petitioner's appointment was cancelled with immediate effect.

4. Learned counsel for the petitioner further submits that the impugned order deserves to be quashed and set aside, inasmuch as the Hon'ble Division Bench of this Court in the case of *Anita & Ors. v. State of Rajasthan & Ors. : D.B. Civil Writ Petition No.16572/2019*, decided on 02.04.2019 has struck down Rule 9-A of the Rules of 2012, inserted vide notification dated 11.04.2018,

pertaining to disqualification for appointment of a candidate having more than two children on or after 01.06.2002. Counsel for the petitioner thus submits that petitioner's appointment has been cancelled while relying upon Rule 9-A of the Rules of 2012, which has been struck down by the Division Bench in the case of Anita (*supra*) and, therefore, cancellation of petitioner's appointment is not sustainable in the eyes of law.

5. Learned counsel for the petitioner places reliance upon an order dated 08.07.2020 passed by a Coordinate Bench of this Court in *SBCWP No.8108/2019 : Madan Lal v. State of Rajasthan & Anr.* along with connected writ petitions, wherein while dealing with similar issue and set of facts, the writ petition was allowed with a direction to afford appointment to the petitioner. Learned counsel for the petitioner further submits that against the order dated 08.07.2020 allowing writ petitions preferred by Madan Lal and others, the respondent Municipal Corporation preferred intra-court appeal, being *DBSAW No.371/2020 : Jodhpur Municipal Corporation v. Madan Lal & Anr. and other connected appeals*, which appeals were dismissed by Division Bench of this Court vide order dated 08.12.2025.

6. On the other hand, learned counsel for the respondents submits that in view of Rule 9-A of the Rules of 2012, the appointment of the petitioner was cancelled and rightly so, inasmuch as the petitioner concealed the fact of having more than two children as on the cut off date; and also filed affidavit to this extent. Learned counsel further submits that Rule 9-A of the Rules of 2012 specifically lays down the conditions, wherein a candidate would be disqualified for appointment and undoubtedly the

petitioner was having more than two children on the cut off date i.e. 01.6.2002. However, learned counsel for the respondents is not in a position to refute that in similar set of facts, a Coordinate Bench of this Court in the case of Madan Lal (*supra*) has allowed the writ petition.

7. I have considered the rival submissions made by counsel for the parties and have perused the material available on record.

8. This Court finds that the Coordinate Bench of this Court in the case of Madan Lal (*supra*), has taken into consideration the judgment passed in the case of Anita & Ors. (*supra*), wherein validity of Rule 9-A of the Rules of 2012 was under challenge and Rule 9-A of the Rules of 2012 was struck down. This Court also finds that in the case of Madan Lal (*supra*), the appointment offered to the petitioner therein was cancelled by the respondents on account of furnishing wrong affidavit and concealment of information regarding more than two children and for violation of Rule 9-A of the Rules of 2012. The relevant part of the order reads as under:

“13. After hearing learned counsel for the parties as well as perusing the record of the case alongwith the precedent law cited, this Court is of the view that once Rule 9A of the Rules of 2012 itself has been struck down, then any action of the respondents, in now denying the petitioners their employment, cannot be sustained.

14. This Court is of the firm opinion that the jurisprudence of Avtar Singh (*supra*) can be taken into consideration as the discretion to cancel the appointments ought to go in favour of the employees, who are on the last pedestal of the government job, and suppression, in the present case, is immaterial, as even if the facts would have been disclosed, the same would not have adversely affected the fitness of an incumbent for employment.

15. This Court has taken note of the fact that for the post in question, the respondents themselves have laid down their policy, relevant portion of which has already been reproduced hereinabove, that the standard of scrutiny ought to be lenient, as the post in question belongs to a very backward and lowly educated contenders.

16. This Court finds that the judgment rendered in Pavani Devi & other connected petitions (*supra*) covers the present issue.

17. In view of the above, the present writ petitions are allowed, and while quashing and set aside the impugned order(s) dated 29.03.2019, the respondents are directed to reinstate the petitioners in service as Safai employee with all consequential benefits. All pending applications stand disposed of."

9. This Court finds that against the order passed in the case of Madan Lal (*supra*), intra-court appeal was preferred, which along with connected appeals, also came to be dismissed by Division Bench of this Court vide order dated 08.12.2025. The order dated 08.12.2025 reads as under:

"1. The issue raised in the present appeals is challenge to the orders passed by the learned Single Judge on 08.07.2020, 19.08.2020, 26.08.2020, whereby the learned Single Judge has set aside the termination orders of the respondents-writ petitioners, passed by the appellants on the ground that they have submitted false information with regard to number of their children. It is stated that while the children born to the respondents were more than two in number on the date of advertisement and the rule required that one must not have more than two children, the appointments would therefore have to be set aside and the orders passed by the learned Single Judge, therefore, ought to be interfered with by this Court.

2. During the course of arguments, it has been pointed out that a Division Bench of this Court in the case of D.B. Civil Writ Petition No.16572/2018 (Anita & Ors. Vs. State of Rajasthan & Ors.) has set aside the rule requiring not more than two children for appointment vide judgment and order dated 2nd April, 2019. Once the Rule 9A of the Rajasthan Municipalities (Safai Employees Service) Rules, 2012 has been declared ultra vires, the concerned stipulation in the advertisement would also be deemed to have been deleted. Any affidavit filed with regard to the said stipulation, therefore, will have to be treated as having become redundant.

3. A person, who has been appointed otherwise on merits, would therefore not be treated to have committed misconduct for the purpose of seeking appointment as the rule itself has been held to be declared bad in law. Accordingly, the learned Single Judge has proceeded to pass the orders setting aside the termination orders.

4. We also notice that the learned Single Judge has relied on the order passed by the Hon'ble Supreme Court in the case of Avtar Singh Vs. Union of India & Ors. Reported in AIR 2016 SC 3598, which has also been later on reiterated in the case of Ravindra Kumar Vs. State of U.P. reported in [(2024) 5 SCC 264].

5. Thus, any trivial information would not be a sufficient ground for terminating the services of an employee. We also notice that no departmental inquiry was conducted before terminating the services of the respondents.

6. In these circumstances, we do not find any reason to entertain these appeals and the orders passed by the learned Single Judge are upheld.

7. The appeals are, accordingly, dismissed”

9. Thus, taking into the facts and circumstances of the case and the fact that Rule 9-A of the Rules of 2012 itself has been struck down by the Division Bench of this Court, then any action of the respondents while relying upon said Rule, is not sustainable and deserves to be quashed and set aside.

10. Accordingly, the writ petition is allowed and the impugned order dated 29.03.2019 (Annex.4) is quashed and set aside. The respondents are directed to afford petitioner joining on the post of Safai Employee pursuant to order of appointment dated 01.09.2018 (Annex.2) within a period of four weeks from the date of receipt of certified copy of this order. It is made clear that the petitioner shall be entitled to notional benefits with effect from the date of appointment order, till the date of joining.

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