

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

S.B. Civil Writ Petition No. 21782/2025

1. Vinita Solanki D/o Shri Ghanshyam Singh, Aged About 36 Years, Resident Of 109, Mahaveer Nagar, Sangriya Fanta, Salawas Road, Jodhpur (Raj.) Posted On The Post Of 'GNM/ Nursing Staff' At Govt. MDM Hospital, Jodhpur.
2. Divya Sharma D/o Shri Ashok Kumar Sharma, Aged About 35 Years, Resident Of Badrinarayan Ji Ki Gali, Gundi Mohalla, Navchokia, Jodhpur (Raj.).
3. Chetna Shri D/o Shri Suresh Chandra, Aged About 26 Years, Resident Of Nayapura, Subhash Colony, Ward No.10, Pipar City, District Jodhpur (Raj.).
4. Magh Singh S/o Shri Ela Singh, Aged About 37 Years, Resident Of Aginshah Ki Dhani, Barmer, District Barmer (Raj.).
5. Rajesh Vishnoi S/o Shri Chaina Ram Vishnoi, Aged About 31 Years, Resident Of 75, Shankar Nagar, Sangriya Fanta, Main Salawas Road, Jodhpur (Raj.).
6. Santosh Kumari Solanki D/o Shri Mohan Kishan, Aged About 47 Years, Resident Of Jatiyon Ki Gali, Khanda Falsa, Kumhariyon Kua, Jodhpur (Raj.).
7. Nischal Sharma D/o Shri Prem Sukh Sharma, Aged About 26 Years, Resident Of 21/539, Chopasani Housing Board, Jodhpur (Raj.).
8. Sunil Kumar Jawa S/o Shri Suraj Mal Jawa, Aged About 29 Years, Resident Of Main Bazar, Asarlai, District Pali (Raj.).
9. Raju Ram S/o Shri Amara Ram, Aged About 28 Years, Resident Of Sargaro Ka Bas, Ghodawat, District Jodhpur (Raj.).
10. Naveen Sharma S/o Shri Vasudev Sharma, Aged About 26 Years, Resident Of Jatha Pada, Jaisalmer (Raj.).
11. Nirmal Bishnoi S/o Shri Sohan Singh Bishnoi, Aged About 40 Years, Resident Of 3, Opposite Sardar, Hakim Bagh, Jodhpur (Raj.).
12. Bilal Hasan S/o Shri Mazahar Hasan, Aged About 30 Years, Resident Of Vyapariyon Ka Bas, Pipar City, District Jodhpur (Raj.).

13. Mohammed Juned S/o Shri Mustak Ahmad, Aged About 28 Years, Resident Of Kharadiyon Ka Bas, Bagri Nagar, Pali (Raj.).
14. Devender Singh Godara S/o Shri Urja Ram Godara, Aged About 28 Years, Resident Of Baganiyon Ka Dhani, Chainpura, Jaisalmer (Raj.).
15. Vimala Patel D/o Shri Ashok Ram Patel, Aged About 29 Years, Resident Of Bhuriyon Ka Basm Jajiwai Gehlota, District Jodhpur (Raj.).
16. Bhagavana Ram S/o Shri Rughnath Ram, Aged About 26 Years, Resident Of Amli, Chitalwana, District Jalore (Raj.).
17. Rafat Ali S/o Shri Inayat Ali, Aged About 30 Years, Resident Of Vyapariyon Ka Bas, Pipar City, District Jodhpur (Raj.).
18. Dinesh Paliwal S/o Shri Cheta Ram, Aged About 30 Years, Resident Of 325, Choudhary Market, Shikargarh, Saran Nagar, Jodhpur (Raj.).
19. Sushila Choudhary D/o Shri Hari Ram, Aged About 31 Years, Resident Of Suthoron Ka Bas, Ward No72, Mangra Punjala, Jodhpur (Raj.).
20. Sushila Jakhar D/o Shri Arjun Ram, Aged About 34 Years, Resident Of Jato Ki Hathai, Bhopalgarh, District Jodhpur (Raj.).
21. Asif S/o Shri Ali Hasan, Aged About 30 Years, Resident Of Vyapariyon Ka Bas, Pipar City, District Jodhpur (Raj.).
22. Laxmi Bishnoi D/o Shri Ram Prakash, Aged About 31 Years, Resident Of B-4/2, Saint Kheteshwar Nagar, Kuri Bhagtasani Housing Board, Jodhpur (Raj.).
23. Moola Ram S/o Shri Tila Ram, Aged About 30 Years, Resident Of Pabu Nagar, Janadesar, District Jodhpur (Raj.).
24. Virendra Kumar S/o Shri Bhera Ram, Aged About 30 Years, Resident Of Aakhariya Bas, Wandar, District Pali (Raj.).
25. Ravindra Patel S/o Shri Nemi Chand, Aged About 28 Years, Resident Of Malkosni Road, Bera Sangaro Ki Uchhal, Bilara, District Jodhpur (Raj.).
26. Laxman Saini S/o Shri Kailash Chand Saini, Aged About

33 Years, Resident Of Ward No.12, Nawa, District Nagaur (Raj.).

27. Needa Khan D/o Shri Mohammad Khan, Aged About 35 Years, Resident Of Behind Chopasani School, Chopasani Road, Jodhpur (Raj.).
28. Mohit Parihar S/o Shri Satya Narayan, Aged About 33 Years, Resident Of 172/b, Gali No.2, Lal Sagar, Jodhpur (Raj.).
29. Varsha Bishnoi D/o Shri Tulcha Ram, Aged About 32 Years, Resident Of 1-B-446, Kuri Bhagtasani Housing Board, Jodhpur (Raj.).
30. Ladani Akilaben D/o Shri Mansukhbhai, Aged About 39 Years, Resident Of C/o Manish Rajpurohit, 24, Shrikant Nagar, New Highcourt Road, Jodhpur (Raj.).
31. Vimla Shakhee D/o Shri Bhanwar Lal, Aged About 33 Years, Resident Of 111, UIT Quarter, Shobhawaton Ki Dhani, Pal Road, Jodhpur (Raj.).
32. Chandra Kanta Soni D/o Shri Gena Ram Soni, Aged About 42 Years, Resident Of Jogmaya Mandir Road, Maderna Colony, Jodhpur (Raj.).
33. Moti Lal S/o Shri Kana Ram, Aged About 40 Years, Resident Of Chawanda Colony, binjhadiya Road, Bilara, District Jodhpur (Raj.).
34. Ashok S/o Shri Ramesh Chandra, Aged About 34 Years, Resident Of Sindhipura, Sathin Road Bypass, District Jodhpur (Raj.).
35. Deepak S/o Shri Kalu Ram, Aged About 33 Years, Resident Of Maliyon Ka Bada Bas, Inside Jaitaraniyon Gate, Sojat City, District Pali (Raj.).
36. Kiran Patel D/o Shri Amara Ram Patel, Aged About 25 Years, Resident Of 22, Golf Course Road, Aanjana Patel Nagar, Jodhpur (Raj.).
37. Chandan S/o Shri Trilok, Aged About 26 Years, Resident Of Ward No.64, Nimba Nimbadi, Mandor, Jodhpur (Raj.).
38. Barish S/o Shri Santosh Das, Aged About 29 Years, Resident Of 216, Adarsh Nagar, Khejarla Marg, Ward No.8, Pipar City District Jodhpur (Raj.).
39. Mukesh Meghwal S/o Shri Hukma Ram, Aged About 28

Years, Resident Of Gali No.2, Ashok Colony, Mandor Road, Jodhpur (Raj.).

40. Sapana Garg D/o Shri Poora Ram Garg, Aged About 33 Years, Resident Of Guruon Ki Dhani, Sindari Charanan, District Barmer (Raj.).
41. Gopesh S/o Shri Arun Kumar, Aged About 39 Years, Resident Of Indra Colony, Opposite Mahamandir Railway Station, Jodhpur (Raj.).
42. Mridul Chouhan S/o Shri Nandkishore Chouhan, Aged About 27 Years, Resident Of Jaloriyon Ka Bas, Ram Chouk, Nagori Gate, Jodhpur (Raj.).
43. Seeta Devi D/o Shri Bhanwar Lal, Aged About 25 Years, Resident Of Sahuo Ki Dhaniyon, Balaji Nagar, Guda Bhakari, Guda Vishnoiyan, District Jodhpur (Raj.).
44. Montu Bhati S/o Shri Vijay Raj, Aged About 27 Years, Resident Of 835, Kudco Quarter, Gali No.22, Kamla Nehru Nagar, Jodhpur (Raj.).
45. Manju D/o Shri Bhika Ram, Aged About 32 Years, Resident Of Tankla, District Nagaur (Raj.).
46. Manish Kumar S/o Shri Jageshwar Bhargav, Aged About 30 Years, Resident Of Dishantariyon Ka Bas, Asop, District Jodhpur (Raj.).
47. Lokendra Singh Inda S/o Shri Panne Singh, Aged About 29 Years, Resident Of Jagdamba Colony, Behind Mahesh Hostel, Near Bombay Motor Circle, Jodhpur (Raj.).
48. Maina Choudhary D/o Shri Shriram Choudhary, Aged About 35 Years, Resident Of 20, Meera Nagar, Dhand, Jhalamand, Jodhpur (Raj.).
49. Pooja Prajapat D/o Shri Omaram Prajapat, Aged About 28 Years, Resident Of Pipli Chouk, Paharganj Colony, Mandor Road, Jodhpur (Raj.).
50. Mahaveer Bangara S/o Shri Ramniwas Bangara, Aged About 31 Years, Resident Of VPO Chua, District Nagaur (Raj.).
51. Ravindra Kumar S/o Shri Heera Ram, Aged About 31 Years, Resident Of Bhojasar, Po Aau, District Jodhpur (Raj.).
52. Narsi Ram S/o Shri Mula Ram, Aged About 26 Years,

Resident Of Vpo Phagotra, Tehsil Bhinmal, District Jalore (Raj.).

53. Dharma Ram S/o Shri Baksha Ram, Aged About 30 Years, Resident Of Riyan Shyamdas, via Merta Road, Tehsil Merta City, District Nagaur (Raj.).
54. Umar Farooque S/o Shri Mohd Hussain, Aged About 33 Years, Resident Of Gali No.14, taxi Stand Circle, Pratap Nagar, Jodhpur (Raj.).
55. Sumitra Patel D/o Shri Amara Ram, Aged About 32 Years, Resident Of Mogra Kallan, Pali Road, District Jodhpur (Raj.).
56. Mohammed Vahid Arsad S/o Shri Mohammed Afzal, Aged About 35 Years, Resident Of 219, Loharo Ki Gali, Near Cycle Market, Ghantaghar, Jodhpur (Raj.).
57. Virendra Singh S/o Shri Tej Singh, Aged About 35 Years, Resident Of 78, Kh. No.340/1, Achaleshwar Nagar, Punjala, Jodhpur (Raj.).
58. Yogesh Gehlot S/o Shri Inder Singh Gehlot, Aged About 28 Years, Resident Of Gopi Ka Bera, Mandor, Jodhpur (Raj.).
59. Virendra Kumar Saraswat S/o Shri S.m. Sharma, Aged About 33 Years, Resident Of 35-B, Sultan Nagar, B.j.s. Colony, Jodhpur (Raj.).
60. Lovely Sankhla D/o Shri Pradeep Kumar Sankhla, Aged About 26 Years, Resident Of Beriya Mohalla, Near Anand Cinema, Sojati Gate, Jodhpur (Raj.).
61. Pusa Ram S/o Shri Chena Ram, Aged About 29 Years, Resident Of Jakharo Ki Dhaniyan, Mornawara, District Jodhpur (Raj.)

All The Petitioners Posted On The Post Of 'Nurse Grade-2nd/ Nursing Officer/ Nursing Staff' At Govt. MDM Hospital, Jodhpur.

-----Petitioners

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Medical, Health And Family Welfare Services, Government Of Rajasthan, Secretariat, Jaipur.

2. Director (Public Health), Medical And Health Services, Health Bhawan, Tilak Marg, C-Scheme, Jaipur.
3. Director (Non-Gazetted), Medical, Health And Family Welfare Department, Health Bhawan, Rajasthan, Jaipur.
4. The Principal And Controller, Dr. SN Medical College And Associate Group Of Hospitals, Shastri Nagar, Jodhpur.
5. The Superintendent, Govt. MDM Hospital, Jodhpur.
6. Chief Medical And Health Officer, Jodhpur.
7. M/s. Rajdeep Enterprise, Through Its Authorized Signatory, 601, 6th Floor, Shalin Complex, Sector-11, Gandhinagar (Gujrat) C/o Superintendent, Govt. Mdm Hospital, Jodhpur.
8. M/s. Gajendra Enterprises, Through Its Authorized Signatory, Add. Maler House, Indra Colony, Bikaner C/o Superintendent, Govt. MDM Hospital, Jodhpur.
9. M/s. Believe Solution Services, Through Its Authorized Signatory, Add. Z-1A, Sec-110-A, New Palam Vishar, Gurgaon, Haryana C/o Superintendent, Govt. MDM Hospital, Jodhpur.
10. M/s. Sri Sainath Associates Private Limited, Through Its Authorized Signatory, Add. L-1542, Sector-I, LDA Colony, Kanpur Road, Lucknow (UP) C/o Superintendent, Govt. MDM Hospital, Jodhpur.
11. The Nursing Superintendent, Govt. MDM Hospital, Shastri Nagar, Jodhpur.

-----Respondents

For Petitioner(s)	:	Mr. Yashpal Khileree
For Respondent(s)	:	Mr. Devkinandan Vyas Mr. Mukesh Dave, AGC with Mr. Tanuj Jain

HON'BLE MR. JUSTICE MUNNURI LAXMAN
Order

21/11/2025

I.A. No.01/2025:

1. The present application (I.A. No.01/2025) has been filed to strike of the petitioners' names to withdraw the present writ

petition qua petitioner Nos.3, 9, 18, 19, 20, 30, 33, 34, 37, 43, 44, 49, 53, 60.

2. The present application is moved on the ground that the relief sought in the present application is no more required as they have already continued in the service.

3. Recording the same, application is **allowed** and the present writ petition is **dismissed** as **withdrawn** qua petitioner Nos.3, 9, 18, 19, 20, 30, 33, 34, 37, 43, 44, 49, 53, 60.

4. Amended cause title filed along with the application may kindly be taken on record.

S.B. Civil Writ Petition No. 21782/2025

1. Heard on the interim stay application.

2. Learned counsel appearing on behalf of the petitioners submits that the petitioners were engaged on outsourcing basis on the post of Nursing Officer Grade-II in the year 2022. Subsequently, the Government has invited tenders from the new outsourcing agency to supply manpower, respondents No.8 to 10 are the new outsourcing agencies selected to sponsor the manpower including the manpower relating to the existing service of Nursing Officer Grade-II. The respondent No.8 was allotted 23 Nursing Officers, respondent No.9 was allotted 22 Nursing Officers and respondent No.10 was allotted 23 Nursing Officers other than other mentioned categories of employees.

3. By virtue of the new tenders, the petitioners' services were discontinued and new manpower were supplemented in the place of the petitioners by the newly selected outsourcing agencies. The practice of replacing the adhoc employees/temporary employees

by other categories of temporary employees have been deprecated by the Hon'ble Supreme Court in case of ***Hargurpratap Singh Vs. State of Punjab & Ors.*** reported in ***(2007) 13 SCC 292***. Since the old temporary employees have gained experience and they are more beneficial and useful to the institutions. According to him, the petitioners being the experienced persons of 3 years, they cannot be supplemented by new adhoc manpower supplied or to be supplied by the respondent Nos.8 to 10. Therefore, he seeks continuance of the petitioners' services even under the new outsourcing agencies selected under the tender process.

5. Learned counsel appearing on behalf of the respondents submits that the respondents have invited new tenders for selection of new outsourcing agencies to supply manpower relating to the post of Nursing Officers Grade-II from the new agencies and the petitioners have no vested rights to continue under the new outsourcing agency as their contractual relationship with the employer would end with the completion of tender period of respondent No.7. The respondents No.8 to 10 are entitled to supply new fresh manpower of their choice after following the due process of law. According to him, those respondents have already selected, sponsored new employees under the category of Nursing Officer Grade-II in place of the petitioners. Therefore, at this stage, this Court may not enter into the interference in the supply of manpower.

6. Learned counsel appearing on behalf of respondents No.8 & 10 (Caveator) submits that the respondents are successful tenderers and they have deposited earnest money and they have

every right to select their own employee to sponsor to the respondents organization as per the tender conditions. Their right to recruit their employees cannot be deprived only on the ground that the previous employees who were working through other outsourcing agency acquired experience and useful to the agency that virtual defeating the very conditions of tender process. He also submits that in pursuance of the tender policy new manpower were selected and they were already sponsored to the organization and they have been working, as such, if any interim orders are granted to continue these existing persons it will impact the persons who are already selected and sponsored by the successful outsourcing agency.

7. Having considered the above contentions, it is not in dispute that the petitioners were initially selected to work through outsourcing agency sponsored by the respondent No.7 who was the successful bidder for the year 2022 and the petitioners have worked under the respondent institution sponsored by the respondent No.7 for nearly about 3 years. The pecuniary benefits which would arise to the successful tenderes are the commissions on the supply of manpower and even the present petitioners are allowed to be continued, the pecuniary benefit to the newly selected outsourcing agency has no impact. They continue to receive the same commission what they have allowed to gain under the new tender policy. The only thing is that whether the newly selected outsourcing agency be allowed to recruit fresh manpower in place of already existing manpower who were working through the previous outsourcing agency i.e. respondent No.7 shall be continued or not.

8. The Hon'ble Supreme Court in case of **Hargurpratap Singh** (supra) has deprecated practice of replacing with one temporary/adhoc worker with the another adhoc worker. The reasons for deprecation of such practice is that the persons who are already working either on the temporary basis or adhoc basis are persons having more experience and more useful to the institutions then the persons who are to be supplemented by new adhoc persons. Therefore, the equity requires in favour of the persons who are already working and gained experience. It would not only be useful to the institution. Retaining such employees would not impact the pecuniary benefit that the new outsourcing agency required to gain under the tender process.

9. The maintainability of the writ petition is also raised by the counsel appearing for the newly selected outsourcing agency. That contentions required to be adjudicated at the final hearing stage not at this stage.

10. Learned counsel appearing on behalf of the respondents (Caveator) relied upon the order dated 22.07.2021 passed by a Co-ordinate Bench of this Court in **S.B. Civil Writ Petition No.8605/2021 (Bhupen Gehlot Vs. State of Rajasthan & Ors.)** and also relied upon the judgment of the Hon'ble Supreme Court in case of **K.K. Suresh & Ors. Vs. Food Corporation of India & Ors.** reported in **AIR 2018 SC 3905** to contend that the petitioners have no right to continue their service under new agencies as they have no contractual relations with the respondents.

11. Having seen the facts in the **Bhupen Gehlot's case** (supra), it is a case where the challenge was made to e-tender notice

issued to sponsor the employees and in that contest it was held that the petitioners therein cannot prevent the process of e-tender and these facts are entirely different to the facts in issue. In case of **K.K. Suresh's case** (supra), it was a case where regularization was sought by the employees who were either employed under contractual or outsourcing agency. This facts are also not applicable to the facts in the present case. The facts in the judgment of the Hon'ble Supreme Court in **Hargurpratap Singh's case** (supra) squarely applied to the similar facts in the present case; therefore, the contention of learned counsel appearing on behalf of respondents No.8 & 9 by placing the reliance upon the aforesaid judgments have no merits and same are devoid of merits.

12. In the above facts and circumstances, the respondents are directed to continue the services of the petitioners who are duly working in the institutions through the respondent No.7 subject to their verification of actual working or not and if they are found to be working under the same post through respondent No.7 till new agency selected they shall be continued even under the newly selected outsourcing agencies, until further orders.

13. They shall engage the petitioners, if already disengaged, within a period of 15 days from the date of receipt of this order.

(MUNNURI LAXMAN),J