



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

S.B. Civil Writ Petition No. 22791/2025

Viplesh Kumar S/o Shri Birbal Ram, aged about 37 years,
Resident of Rajeev Nagar, Barjasar, District Jodhpur, Rajasthan.

-----Petitioner

Versus

1. State of Rajasthan through Secretary, Department of Rural Development and Panchayati Raj, Government of Rajasthan, Secretariat, Jaipur.
2. The Secretary, Department of Education, Government of Rajasthan, Secretariat, Jaipur.
3. The Chief Executive Officer, Zila Parishad, Jodhpur.
4. The Vikas Adhikari, Panchayat Samiti Ghantiyali, District Phalodi (Rural).
5. The District Education Officer (Headquarters), Elementary Education, District Phalodi.

-----Respondents

For Petitioner(s)	:	Mr. Lokesh Mathur Mr. Prakash Kumar Balot
For Respondent(s)	:	Mr. Kamlesh Sharma

HON'BLE DR. JUSTICE NUPUR BHATI

Order

05/05/2026

1. The instant writ petition has been filed with the following prayers:

- "a) by an appropriate writ, order or direction, the dismissal order dated 28.03.2025 (Annex.06) may be quashed and set aside and the petitioner may be directed to be reinstated 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 the petitioner;
- d) Costs of this petition may kindly be allowed to the petitioner"



2. Brief facts of the case as stated in the writ petition are that an order dated 27.09.2023 was issued by the Chief Executive Officer, Zila Parishad, Jodhpur, pursuant to the District Establishment Committee meeting held on 26.09.2023, whereby the petitioner was selected for the post of Teacher Grade-III and allotted to Panchayat Samiti Ghantiyali, with his name appearing at Serial No. 61. Subsequently, vide order dated 29.09.2023 issued by the Vikas Adhikari, Panchayat Samiti Ghantiyali, District Phalodi, appointment/posting orders were issued and the petitioner's name appeared at Serial No. 6, following which he joined his duties and confirmation to this effect was issued on 30.09.2023. Thereafter, an FIR No. 0030/2024 dated 24.05.2024 was registered against the petitioner under relevant provisions of the IPC and the Rajasthan Public Examination (Prevention of Unfair Means) Act, 2022, alleging that he secured appointment by using a dummy candidate in the competitive examination; he was arrested on 05.12.2024 and later released on bail by order dated 31.10.2025 passed by this Court, Jaipur Bench. Subsequently, the District Education Officer (Headquarters), Elementary Education, Phalodi, vide order dated 28.03.2025, dismissed the petitioner from his services, leading to the filing of the present writ petition before this Court.

3. Learned counsel for the petitioner submits that the petitioner has been afforded appointment on the post of Teacher Gr.III (Level-1) vide order dated 27.09.2023 (Annex.1) pursuant to the meeting of District Establishment Committee. He submits that an FIR was lodged (0030/2024) on 24.05.2024 against the petitioner for the offence under Rajasthan Public Examination (Prevention of



Unfair Means) Act, 2022 alleging that the petitioner secured appointment on the post of teacher by using a dummy candidate who appeared in place of the petitioner in the competitive examination pursuant to which, the petitioner was arrested and was enlarged on bail vide order dated 31.10.2025 (Annex.5). However, the respondents, vide order dated 28.03.2025 (Annex.6), invoking Rule 19(ii) of Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, dismissed the petitioner from service. He submits that the District Education Officer has passed the impugned order dated 28.03.2025 (Annex.6), however the authority to pass the said order vests with the District Establishment Committee pursuant to Section 19(1) sub-section (3) of the Rajasthan Panchayati Raj Act, 1994. He submits that since the order of appointment has been issued by the District Establishment Committee, the power to dismiss the petitioner from service also vests with the same authority. Counsel for the petitioner places reliance upon the order passed by the co-ordinate bench in the case of Laxminarayan Singh (SBCWP No. 3634/2022) decided on 05.03.2026 wherein on similar set of facts the co-ordinate bench has allowed the writ petition while quashing the charge-sheet issued by the District Education Officer.

4. Learned counsel for the respondents submits that the respondents have issued guidelines in respect to the Establishment, function and duties, power and responsibilities of the District Education Officer (Headquarters), Elementary Education and while drawing the attention of the Court to clause 3.3.1.8, he submits that that the District Education Officer, as the appointing authority, can discharge responsibilities such as



deputation, awards, suspension, punishment, dismissal, retirement and termination of service of Teacher Gr. III working in Primary/Upper Primary school of the district. He submits that the District Education Officer has rightly exercised his powers while dismissing the petitioner from service. Learned counsel for the respondent, however, is not in a position to refute that similar issue has been decided by the Co-ordinate bench in the case of Laxminarayan Singh (*supra*).

5. Heard learned counsel for the parties and perused the material available on record.

6. It is seen that the Co-ordinate bench in the case of Laxminarayan Singh (*Supra*) has dealt with a similar issue wherein the petitioner, a primary Teacher (Gr.III), was charge-sheeted by the respondents and the charge-sheet was issued by the District Education Officer. The relevant portion of the order passed in the case of Laxminarayan Singh (*supra*) reads as infra:

"8. To answer the above contentions, it is apt to refer to Section 89 and Section 91 of the Rajasthan Panchayati Raj Act, 1994 and Rule 258 of the Rajasthan Panchayati Raj Rules, 1996 which reads as under:-

"89. Constitution of the Rajasthan Panchayat Samiti and Zila Parishad Service.-(1) There shall be constituted for the State service designated as the Rajasthan Panchayat Samiti and Zila Parishad Service and hereafter in this section referred to as the service and recruitment thereto shall be made district-wise[:]

Provided that selection for the posts specified in clause (i), (iii) and (iv) of sub-section

(2) shall be made at the State Level. (2) The Service may be divided into different categories, each category being divided into different grades, and shall, consist of -

(i) Gram Vikas Adhikari

(ii) Deleted

(iii) Primary and Upper Primary school teachers;

(iv) Ministerial establishment, (except Accountants and Junior Accountants); and

(v) Prabodhak and Senior Prabodhak

(3) The State Government may encadre in the Service any other category or grade of officers and



employees of Panchayat Samitis and Zila Parishads and not included in Class IV Services.

(4) The State Government may prescribe the duties, functions and powers of each grade and each category of officers and employees encadred in service. (5) All appointments to posts in the service shall be made -

- (a) by direct recruitment; or
- (b) by promotion; or
- (c) by transfer.

(6) Appointment by direct recruitment [to the posts specified in clause (ii) of sub-section (2) and on the posts encadred under sub-section (3) shall be made by a Panchayat Samiti or Zila Parishad, as the case may be, in accordance with the rules made in this behalf by the State Government from out of the persons selected for the posts in a grade or category in the district by the District Establishment Committee referred to in sub-sec. (1) of Sec. 90.

(6A) Appointment by direct recruitment to the posts specified in clauses (i) and (iv) of sub-sec. (2) shall be made by a Panchayat Samiti or Zila Parishad, as the case may be, in accordance with the rules made in this behalf by the State Government, from out of the persons selected for the posts by Rajasthan Subordinate and Ministerial Services Selection Board in such manner as may be prescribed.

(6AA) Appointment by direct recruitment to the posts specified in clause (iii) of sub-section (2) shall be made by a Panchayat Samiti or Zila Parishad, as the case may be, in accordance with the rules made in this behalf by the State Government, from out of the persons selected for the posts by such agency in such manner as may be prescribed; and

(6B) Appointment on the post specified in clause (v) of sub-section (2) shall be made by Additional Chief Executive Officer-cum-District Education Officer (Elementary Education) of the district concern in accordance with the rules made in this behalf by the State Government from out of persons selected for the posts by the recruitment committee constituted by the Government in accordance with the rules made by the State Government in this behalf:

Provided that in case of posts reserved for widows and divorcee women, selection shall be made in such manner and by such Screening Committee as may be prescribed by State Government.

(7) The appointing authority may, so long as selection is not made by the District Establishment Committee or selected persons are not available for appointment, make appointments in the prescribed manner on temporary basis for a period not exceeding six months and the said period may be extended only after consultation with the District Establishment Committee[:]

Provided that no appointment on temporary basis shall be made on the posts specified in clause (iii) of sub-section(2)

(8) Appointments by -

(i) promotion shall be made by the Panchayat Samiti or the Zila Parishad, as the case may be, in the



prescribed manner from amongst persons whose names have been entered in the list prepared by the District Establishment Committee, and

(ii) transfer shall be made after consultation with the Pradhans or the Pramukhs, as the case may be of the Panchayat Samitis or the Zila Parishad from and to which such transfer is proposed to be made.

[8-A] Notwithstanding anything contained in Sub-sec. (8), the State Government may transfer any member of the service (from any place of posting to any other place of posting whether within the same Panchayat Samiti or) from one Panchayat Samiti to another Panchayat Samiti, whether within the same district or outside it, from one Zila Parishad to another Zila Parishad, or from a Panchayat Samiti to a Zila Parishad or from Zila Parishad to a Panchayat Samiti and may also stay the operation of, or cancel, any order of transfer made under Sub-sec. (8), or the rules made thereunder.]

(9) Persons holding posts encadred in the service shall also be eligible for appointments or promotion to posts in a State Service or under the State Government in accordance with the rules made in that behalf by the State Government and subject to terms and conditions laid down in such rules, and the persons so appointed or promoted shall count the period of their holding posts in the service constituted under this section for the purpose of seniority and pension.

(10) Persons holding appointment in a State Service shall also be eligible for appointment by transfer to a post encadred in the service constituted under this section in accordance with rules made in this behalf by the State Government and on terms and conditions laid down in those rules.

(11) Every person holding a post encadred in the service constituted under this section shall be entitled to the payment of a pension by the State Government out of the consolidated fund of the State in accordance with rules made by it in that behalf."

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"91. Disciplinary proceedings against and punishments inflicted on staff of Panchayat Samitis and Zila Parishads.-

(1) The conduct of disciplinary proceedings that may be started against, and the punishments that may be inflicted in such proceedings on, the officers and servants of Panchayat Samitis and Zila Parishads, other than officers referred to in Secs. 79 and 82 shall be governed and regulated by rules made by the State Government in this behalf.

(2) Subject to such rules-

(a) all or any of the prescribed punishments may be inflicted on all persons holding posts in Class-IV Services-(i) by the Vikas Adhikari of a Panchayat Samiti, if such persons are servants of that Panchayat Samiti; (xxx)

(ii) by the Chief Executive Officer of a Zila Parishad, if they are servants of that Zila Parishad; (xxx)

(iii) where such services are in connection with the elementary education and such services are under the



control of Panchayat Samiti, by the Block Elementary Education Officer of the Panchayat Samiti, and
(iv) where such services are in connection with elementary education and such services are under the control of the Zila Parishad, by the District Elementary Education Officer.]

(b) the punishment of censure or withholding of increment or promotion may with the approval of the Chairperson of the concerned Panchayati Raj Institutions be inflicted on all persons holding appointments to posts encadred in the services constituted under Sec. 89-

(i) by the Vikas Adhikari of a Panchayat Samiti, if such persons hold their appointment under the Panchayat Samiti; and

(ii) by the Chief Executive Officer of the Zila Parishad, if they hold their appointment under that Zila Parishad.

(3) All other prescribed punishments may be inflicted on the persons holding appointments on the posts encadred in the service in a Panchayat Samiti or a Zila Parishad by the District Establishment Committee.

(4) An appeal may be preferred-

(a) against an order made by the 1[Vikas Adhikari/Block Elementary Education Officer of the Panchayat Samiti or the Chief Executive Officer/District Elementary Education Officer of the Zila Parishad] to the District Establishment Committee constituted under Sec. 90; and

(b) against an order made by the District Establishment Committee under Sub-sec. (3) to the State Government.

(5) An appeal may be preferred under Sub-sec. (4) within a period of 90 days from the date of the order appealed from and the time taken for obtaining a copy of such order shall be executed from the said period."

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"Rule 258 : Categories of posts : -

(1) There shall be the following categories of posts to be appointed in Panchayat Samitis and Zila Parishad:-

(a) State Service posts : -

(i) Chief Executive Officer

(ii) Vikas Adhikari

(iii) Accounts Officers

(iv) Assistant Engineers

(v) And such other categories of posts as are prescribed by the Government from time to time.

(b) Subordinate Service: -

(i) Extension Officer (Panchayat, Education, Co-operative, progress).

(ii) Assistant Accounts Officer.

(iii) Accountant/Junior Accountant

(iv) Junior Engineer

[(c) Ministerial and subordinate posts in Panchayat Samiti and Zila Parishad service-

(i) Assistant Office Superintendent;

(ii) Clerk Grade I;

(iii) Clerk Grade II;

(iv) Drivers;

(v) Primary and Upper Primary School Teachers;

(vi) Village level worker-cum-Secretary Panchayat;



- (vii) Fitter; and
- (viii) Hand Pump Mistry.]
- (d) Class IV Service posts.
- [(e) Ex officio officer:
- (i) Ex officio Panchayat Elementary Education Officer.]
- (2) Panchayat may however appoint part time person on contract basis with prior permission of the Chief Executive Officer for management of properties and cattle pound etc., out of own income and Class IV servant for panchayat office out of general purpose grant from the State Government.
- [(3) Panchayat may appoint any person as Gram Panchayat Sahayak, on part time or on fixed honorarium or a contract basis, for Panchayat, Office or for any other work with prior permission of the Chief Executive Officer. He shall be paid from the grant received for the purpose from the State Government on recommendation of the State Finance Commission or out of own income of the Panchayat.]

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9. From a reading of Section 89 of the Rajasthan Panchayati Raj Act, 1994, it is clear that the petitioner's services are governed under Section 89 for the reason that the petitioner is working as a Primary Teacher.

10. Section 91(2) (b) of the Rajasthan Panchayati Raj Act, 1994 deals with imposition of punishment by the competent authority like, punishment of censure or withholding of increment or promotion. The competent authority is Vikas Adhikari in respect of the employees covered under Section 89 of the Rajasthan Panchayati Raj Act, 1994 other than Class IV employee, in case of the employees working under the Panchayat Samiti with the approval of the Chairperson of the concerned Panchayat Raj Institution or Chief Executive Officer for the employees under Zila Parishads after obtaining the prior approval of the Chairperson of Zila Parishad. In respect of all other punishments, the District Establishment Committee is the competent authority.

11. Rule 258 of the Rajasthan Panchayati Raj Rules, 1996 clearly speaks that the petitioner's services comes under the Ministerial and Subordinate Services and not Class IV services.

12. In the present case, admittedly, the charge-sheet is flowing from the District Education Officer. He is neither authorised to do so under Section 91(1)(b) nor under Section 91(1)(3) of the Rajasthan Panchayati Raj Act, 1994. In such circumstances, the charge-sheet is not flowing from the competent authority. On this ground alone, the writ petition is required to be allowed.

13. In the result, the instant writ petition is allowed. The charge-sheet dated 02.02.2022 (Annex.7) is quashed and set aside. The respondents are at liberty to proceed with the matter in accordance with the above provisions of law.”

7. On a conjoint reading of the provisions of Section 89(2)(iii) read with Section 91(3) of the Rajasthan Panchayati Raj Act, 1994



and Rule 258, Clause V of the Rajasthan Panchayati Raj Rules, 1996, it is evident that the District Education Officer does not qualify to be a competent authority to dismiss the petitioner from his services.

8. Thus, taking into consideration the judgment passed in the case of Laxminarayan Singh (*supra*) and the relevant provisions, this Court is of the considered view that the issue involved in the writ petition is no more *res-integra*, inasmuch as in the case in hand, the District Education Officer has exercised his powers beyond the provisions of law and the competent authority for passing the said order was the District Establishment Committee and, therefore in such circumstances the impugned order dated 28.03.2025 (Annex.6) deserves to be quashed and set aside.

9. Accordingly, the writ petition is allowed and the impugned order dated 28.03.2025 (Annex.6) is quashed and set aside. The respondents would be at liberty to proceed against the petitioner, if required, strictly in accordance with the provisions laid down in the law.

10. The respondents are directed to re-instate the petitioner with immediate effect, preferably within a period of four weeks' from the date of receipt of the certified copy of the order.

(DR.NUPUR BHATI),J