HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 4477/2025

Managing Committee, Shri Raghunath Higher Secondary School

----Petitioner

Versus

Ramraj S/o Shri Rajpati Yadav

----Respondent

For Petitioner(s)	:	Mr. Vivek Dangi with Mr. Hitesh Jatawat
For Respondent(s)	:	

JUSTICE ANOOP KUMAR DHAND

Order

07/04/2025

1. Learned counsel for the petitioners submits that the application filed by the respondents under Section 21 of the Rajasthan Non-Government Educational Institutions Act, 1989 (for short, "the Act of 1989") was allowed by the Rajasthan Non-Government Education Institution Tribunal, Jaipur (for short, "the Tribunal") vide order dated 22.06.2016, by which the petitioner-management was directed to make payment of gratuity, leave encashment and due salary to the respondent. Counsel submits that aforesaid order was assailed by the petitioner by way of filing S.B. Civil Writ Petition No.9872/2017. Counsel submits that the said petition was rejected along-with a batch of identical writ petitions by the Co-ordinate Bench of this Court vide order dated 06.09.2017.

2. Learned counsel submits that feeling aggrieved by the order passed by the Tribunal as well as by the Single Bench, a

D.B. Special Appeal Writ No.1775/2017 was submitted along-with other connected appeals and the same was decided by the Division Bench of this Court with the lead case of **Managing Committee, Shri Raghunath Higher Secondary School and Anr. Vs. Mahesh Kumar Sharma** vide order dated 07.03.2018.

3. Counsel submits that the following order was passed by the Division Bench of this Court which read as under:-

> "The issue would further remain about its payment. It is stated that appellant-institution was taken over by the State Government even prior to the Rules of 2010. The appellant institution would be liable to pay interest for the period amount was payable to the extent of their share while the non-appellant employees were working with them. It would be other than for payment of gratuity and leave encashment because it is payable on retirement. After the appointment of the non-appellant employees under the Rules of 2010, the interest would not be payable by them.
>
> With the aforesaid, issue of interest is determined and would be payable, as directed above.
>
> So far as claim of gratuity and leave encashment are concerned, we are of the opinion that both are payable at the time of retirement, if it goes strictly in consonance to the Rules. The directions for payment of gratuity and leave encashment have been given midway. The non-appellant-employees were initially recruited by the appellant-institution but, subsequently, appointed in the State Services under the Rules of 2010. In view of the above, the accumulated amount of gratuity as well as leave encashment was directed to be paid to the State for the period employees worked with the management committee and complete

benefit would then be given to the employees by the State on their retirement. The accumulated amount of leave encashment would be only to the extent of unaided portion.

To make balance and to remain in consonance to the Rules, the appellant-institution would determine the amount of gratuity and leave encashment for the period non-appellant-employees worked with them. The said amount would be deposited with the State Government or it would be deducted by the State from any amount payable to the appellant-institution pursuant to the directions in the case of Managing Committee, Pananbai Ramnath Poddar Senior Secondary School (supra) and applied to this case. It is, however, clarified that amount towards leave encashment would be accounted by the appellant-institution to the extent of their share in view of grant-in-aid but, for the gratuity, the entire amount would be payable by them, as indicated above."

4. Counsel for the petitioners submits that pursuant to the aforesaid order, the cheque was prepared by the petitioners in the name of the respondent and the same was accepted by him, but the Executing Court has passed the order impugned dated 15.02.2025 asking the petitioner to pay the amount of gratuity along-with interest to the respondent. Counsel submits that the aforesaid amount would be paid to the respondents by the State at the time of his retirement in pursuance of the order passed by the Division Bench on 07.03.2018, but these facts have been overlooked at the time of passing of the order made by the Executing Court.

5. Issue notice of the writ petition as well as the stay application to the respondents. Rule is made returnable by 06.05.2025.

6. Notices be given '*dasti*'.

7. Till next date, further proceedings of the Executing Court shall remain stayed.

8. It is made clear that this order would come into effect only after service of notice upon the respondents.

9. The respondents would be at liberty to move application for modification / clarification of this order, after service.

10. List along-with S.B. Civil Writ Petition No.2998/2025.

(ANOOP KUMAR DHAND),J

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