

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal Writ No. 620/2021

State Of Rajasthan and Ors.

----Appellants

Versus

Amita Sharma W/o Sh. Devendra Kumar Sharma

----Respondent

Connected With

D.B. Special Appeal Writ No. 621/2021

State Of Rajasthan

----Appellant

Versus

Santosh Choudhary D/o Sh. Mala Ram Choudhary, Wife Of Sh.
Naresh Choudhary

----Respondent

D.B. Special Appeal Writ No. 622/2021

State Of Rajasthan

----Appellant

Versus

Smt Rajesh Kasera D/o Sh. Girraj Sharan Kasera

----Respondent

D.B. Special Appeal Writ No. 623/2021

State Of Rajasthan

----Appellant

Versus

Poonam Sharma W/o Sh. Ashok Kumar Sharma

----Respondent

D.B. Special Appeal Writ No. 626/2021

State Of Rajasthan

----Appellant

Versus

Ishwar Singh Yadav S/o Sh. Prabhu Ram Yadav

----Respondent

For Appellant(s) : Mr. B.S. Chhaba, AAG assisted by
Mr. Avinash Chaudhary &
Mr. Hardik Singh

For Respondent(s) : Mr. Krishan Chander Sharma with
Mr. Vaibhav Pancholy &
Mr. Pawan Sharma
Mr. Balkishan Saini

HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

09/05/2025

1. Heard on application (No.1/2024) for vacating stay order dated 13.12.2021.
2. Learned counsel for the respondents-writ petitioners would submit that the interim order passed by this Court deserves to be vacated inasmuch as, it is clear from the order of the learned Single Judge that the writ petitioners were granted relief on the ground of parity because number of persons including Smt. Raja Bai Solanki were benefited by a regular appointment as *Prabodhak*, even though the leave availed towards medical leave/maternity leave exceeded 180 days. He would further submit that there were number of other persons, who have been granted similar benefit. According to the learned counsel for the respondents-writ petitioners, Smt. Raja Bai Solanki had availed 721 days leave during the period of five years. Therefore, the interim order dated 13.12.2021 passed by this Court may be vacated.
3. On the other hand, learned State Counsel would submit that though this Court had directed the respondents to place on record orders, if any, passed in respect of other persons, which have not been filed. He would submit that as far as Smt. Raja Bai Solanki is concerned, the order was passed on 05.10.2009 by the Director

Elementary Education, Rajasthan that she had availed 149 days of leave, which is less than 180 days. The information disseminated through RTI, as referred to and relied upon by the writ-petitioners, is not a correct information and the order passed by the Director Elementary Education would prevail. As far as Mukhram S/o Prahlad is concerned, it is stated that relaxation clause provided under Rule 40 of Rajasthan Panchayati Raj Prabodhak Service Rules, 2008 was invoked in special circumstances. Therefore, he would submit that all these aspects were not taken into consideration by the learned Single Judge and without consideration of the reply and defence of the State, the learned Single Judge passed the impugned order.

4. Having considered the submissions of learned counsel for the parties, we find that the learned Single Judge has passed the order which does not contain the defence of the appellants, much less consideration on the same. The order of the Director Elementary Education shows that Smt. Raja Bai Solanki had availed 149 days of leave. The order passed by the authority shall prevail over information supplied under the Right to Information Act, though appropriate action is required to be taken against the officer who had given incorrect information. As far as the case of Mukhram is concerned, it is a case of invoking relaxation clause. The writ petitioners have not come out with the case that they are also entitled to relaxation as a matter of law or on the ground of parity. Further the respondents were though granted time to place orders on record in cases of other persons who allegedly were also granted benefit even though they had availed leave beyond 180 days, no such order has been placed and learned counsel for the

respondents submits that such order should be directed to be produced by the appellants. Since the appellants have denied, the burden was on the respondents.

5. In view of the above considerations, we are not inclined to vacate the interim order.

6. Application for vacating stay is, accordingly, rejected. Interim order is made absolute.

7. The appeals be listed for final hearing.

(MUKESH RAJPUROHIT),J

(MANINDRA MOHAN SHRIVASTAVA),CJ

RAJAT/ANAND TANWAR/37-41