

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 12408/2025

Managing Committee, Geeta Bajaj Bal Mandir Senior Secondary
School, Moti Dungari Road, Jaipur (Raj) Through Secretary

-----Petitioner

Versus

1. Laxman Lal Saini S/o. Chhajuram Saini, Aged About 68 Years, R/o. Plot No. D-14, Rajeev Gandhi Nagar, Kalyanpuri, Khatipura, Jagatpura, Post Dantli District Jaipur (Raj.)
2. Commissioner, Secondary Education Rajasthan, Bikaner (Rajasthan).

-----Respondents

Connected With

S.B. Civil Writ Petition No. 12937/2025

Managing Committee, Geeta Bajaj Bal Mandir Senior Secondary
School, Moti Dungari Road, Jaipur (Raj.) Through Secretary.

-----Petitioner

Versus

1. Ramswaroop Sharma (Deceased), Through Legal Heirs
- 1/1. Smt. Manbhar Devi W/o Late Ramswaroop Sharma, Resident Of - LI-233, Kailashpuri, Behind Golimar Garden, Amer Road, Jaipur (Raj.)
- 1/2. Tarun Sharma S/o Late Shri Ramswaroop Sharma, Resident Of - LI-233, Kailashpuri, Behind Golimar Garden, Amer Road, Jaipur (Raj.)
- 1/3. Kushal Sharma S/o Late Shri Ramswaroop Sharma, Resident Of - LI-233, Kailashpuri, Behind Golimar Garden, Amer Road, Jaipur (Raj.)
- 1/4. Smt. Rekha Sharma D/o Late Ramswaroop Sharma, Resident Of - Jamdoli, Agra Road, Jaipur.
2. Commissioner, Secondary Education, Rajasthan, Bikaner (Raj.)

-----Respondents

For Petitioner(s) : Mr. Rupin Kala
For Respondent(s) : Mr. Devansh Sharma, DGC

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN
Order

10/12/2025

1. These writ petitions are preferred by petitioner with following prayer:

“(i) By issuance of an appropriate writ, order or direction, quash and set aside the impugned order dated 29.04.2025 passed by Civil Judge and Judicial Magistrate (South), Jaipur Mahanagar-First, Jaipur, to the extent of issuance of warrant of attachment against the petitioner School/Sansthan.

(ii). By issuance of an appropriate writ, order or direction, quash and set aside the impugned order dated 29.04.2025 passed by Civil Judge and Judicial Magistrate (South), Jaipur Mahanagar-First, Jaipur.”

2. Learned counsel for petitioner while referring and relying upon **judgement dated 06.11.2015 in D.B. Special Appeal Writ No.663/2015 titled as State of Rajasthan and Anr. Vs. The Management Committee Sh. Bhagwan Dasi Todi College [2016(2)WLC(Raj.)1]** submits that the controversy and the issue raised herein is already settled by a Division Bench of this Hon'ble Court. He further submitted that these writ petitions be disposed of in accordance with aforesaid ratio, which was further relied by a Coordinate Bench in **S.B. CWP No.10864/2014** titled as **Managing Committee, K.D. Jain Shikshan Parishad & Another Vs. Smt. Santosh Pareek & Anr.** He also referred

order dated 03.07.2025 in **D.B. Civil Contempt Petition No.1191/2024 Harivansh Kishore Dwivedi & Ors. Vs. Shri Krishana Kunal & Ors.**, passed by the Division Bench of this Court.

3. Having considered the submissions of learned counsel for the parties and also material placed on record, the writ petitions are liable for disposal in light of ratio laid down in case of **State of Rajasthan and Anr. Vs. The Management Committee Sh. Bhagwan Dasi Todi College (supra)** and further followed in case of **Managing Committee, K.D. Jain Shikshan Parishad Vs. Santosh Pareek (supra)** passed by this Court.

4. In case of **Managing Committee, K.D. Jain Shikshan Parishad Vs. Santosh Pareek (supra)**, while deciding 4 writ petitions arising from order of executing Court (Civil Court), filed to execute order of Non-Government Educational Institutions Tribunal, a Coordinate Bench has observed as under:-

14. It appears that respondent-Employee(s) have initiated execution of the impugned judgment(s) before the Civil Court and in the execution proceedings, application filed by and on behalf of petitioner-Management Committee under Section 151 CPC, seeking to absolve the petitioner-Institution from the liability to pay dues beyond 20% as claimed by the respondent-Employee(s) in the execution, has been rejected. Hence, in such eventuality, petitioner has filed instant writ petitions. Although, in instant writ petitions, order passed against the petitioner-Institution by the executing Court has not been impugned, however the grievance and issue raised by the petitioner can

be addressed and resolved even otherwise, since same is squarely covered by the judgement of the Division Bench in case of **The Management Committee Sh. Bhagwan Das Todi College (Supra)**, therefore, mere not impugning the order of the executing Court passed against the petitioner, is of not much relevance.

15. Indisputably, petitioner-Institution is an aided institution and the appointment of respondent-Employee(s) was qua sanctioned and aided posts. Petitioner claims to have 80% grant-in-aid with the government. In respect of dues of the respondent Employee(s), in furtherance to the judgments and direction of the Tribunal, petitioner-Institution admits its liability upto 20% and for remaining 80%, liability is to be borne by the State Government out of the amount of grant-in-aid. Counsel for respondent-Employee(s), in explicit terms stated at Bar that remaining 80% of their dues may be allowed to be recovered from the State Government, but he claims interest on the delayed payment against the petitioner-Institution as also against the State Government, whosoever is liable for the delay and further, for gratuity, he has confined his claim qua petitioner-Institution only. Such agreement and understanding stands in conformity with the judgment of the Division Bench in case of **The Management Committee Sh. Bhagwan Das Todi College (Supra)**.

In case of **The Management Committee Sh. Bhagwan Das Todi College (Supra)**, the Division Bench has clearly held that the grant-in-aid can be sanctioned and paid directly by the State Government to the employees of the aided educational institutions in the light of Section 31(2) of the Act of 1989. For ready reference, relevant

portion of the judgment i.e. Para Nos.39, 40 & 46 are being reproduced hereunder:

"39. Thus, the grant-in-aid can be sanctioned and paid directly by the State Government to the employees of the Aided Educational Institutions in the exigency, if arises, as being postulated, by the Legislature in its wisdom, u/ Sec.31(2) of the Act, 1989 and in our considered view the financial liability, which has been created upon the State Government and settled by this court, of which we have made reference supra receiving grant-in-aid from the State Government against the approved expenditures under the Act, 1989 and Rules, 1993 framed thereunder, at least for the period till the employees are absorbed in the State Government under the Rules, 2010, w.e.f. 01.07.2010 remained on the sanctioned & aided posts in the Non- Government Aided Institutions, cannot be abrogated or absolved by creating a subordinate Legislation by virtue of Cl. (vii) and u/C. (xi) of R.5 of the Rules, 2010. 40. At the same time, it may be noticed that such of the employees who were in service of the Non-Government Aided Institution and working against the sanctioned & aided post when the Rules, 2010 came into force either retired before screened and appointed in the State Government or are not inclined to join service under the Rules, 2010, R.5(vii) indisputably, shall not come in their way and the State Government is under legal obligation to sanction grant-in-aid and has to part with its share against arrears of salary and other approved expenditures provided u/R.14 of the Rules, 1993 for such employees and two different yardsticks/standards cannot be adopted for those who joined service under the Rules, 2010 and others who are not inclined to join, as observed and in our considered view, SUB-R. (vii) of R.5 of the Rules, 2010, has no application and entitlement/right of the institution accrued cannot be divested or abrogated by the State Government on creation of subordinate Legislation and that is not permissible by law. 46. The Special Appeals filed by the State Government are without substance and accordingly dismissed and taking note of the

Sec.31(2) of the Act, 1989 we direct the Non-Government Educational Institution to prepare due drawn statement of each of the employees of their Institution who have worked against sanctioned and aided posts in regard to their arrears of salary and their dues which are approved expenditures to the extent of grant-in-aid and the same be sent to the State Government and the State Government after its due verification from their records will make payment of arrears to each of the employee who either have now become members of Rules, 2010 or have retired or left the job (upon the period one has worked" and to other employees similarly situated under intimation to the concerned Non-Government Recognized Institution."

Thus, it is crystal clear that the respondent-Employee(s) are entitled to recover their dues directly from the State Government in a ratio of sanctioned grant-in-aid and since in the case at hand, same is 80%, therefore, if 20% of dues has been paid/ released by the petitioner-Institution, then respondent-Employee may proceed for execution proceedings to recover the remaining 80% of their dues directly from the State Government, following the ratio decidendi expounded in case of **The Management Committee Sh. Bhagwan Das Todi College (Supra)**.

16. As far as claim of interest on the delayed payment is concerned, obviously for 20% of dues, for which petitioner-Institution accepts its liability, interest is to be borne by the petitioner-Institution only. In respect of remaining 80% of dues, the issue hinges on the point that whether the due drawn statement in respect of each employee has been prepared and forwarded by the petitioner-Institution to the State Government? In this respect, the executing Court has observed that the

due drawn statement in respect of each respondent-Employee was not furnished by the petitioner-Institution. Counsel for petitioner although submitted that due drawn statement in respect of each respondent-Employee had been furnished wayback in the year 2016-17, yet undertakes to furnish afresh before the executing Court within a period of eight weeks from the next date already fixed.

17. In such scenario, the liability to pay the interest on the remaining 80% dues of the respondent-Employee(s), is to be decided and determined by the executing Court, having considered the factual aspect that who is responsible for the delay i.e either fault lies on the part of petitioner-Institution or the State Government is liable for delay and that 80% of the dues of respondent Employee(s), for which they are entitled as per the judgment and directions passed by the Tribunal, is concerned, same being the part of grant-in-aid for which the State Government is liable to pay, will be paid by the State Government and the liability to pay interest thereupon for the delayed period, shall be borne as per decision of the executing Court on this issue.

18. In respect of payment of gratuity, it is made clear that the petitioner-institution shall pay the amount of gratuity, if same has not been entirely paid to the respondent-Employee(s).

19. In view of above observations, which are in conformity to the ratio decidendi of the judgment delivered in case of **The Management Committee Sh. Bhagwan Das Todi College (Supra)**, the impugned judgment(s) passed by the Tribunal, as detailed out in the appended Schedule, which have been put to challenge by the petitioner-

Management Committee herein, do not warrant any interference, hence same are hereby affirmed and shall be implemented/ executed in the manner as directed hereinabove. The executing Court shall ensure the compliance accordingly

5. These writ petitions are on identical facts raising same issue i.e. recovery in execution proceedings. Herein, it is claimed that petitioner (Institution) is getting 90% of grant-in-aid from the Government, therefore 90% of due amount and interest is recoverable from the Government (respondent No.2). The counsel appearing on behalf of respondent No.2 admits that the judgement in case of the **Management Committee, Sh. Bhagwan Das Todi College (supra)** has attained finality and ratio is made applicable by the Government.

6. Thus, in respect of dues of employee(s), in furtherance of judgement and direction of Tribunal, the petitioner (Institution) is liable to pay up to its contribution and remaining has to be paid by the State Government (respondent No.2). The facts mentioned herein indicated that institution was getting 90% grant-in-aid, thus the petitioner is liable to make payment to the tune of 10% of total amount. Accordingly, the writ petitions are disposed of in terms of judgement/ratio in case of the **Management Committee, Sh. Bhagwan Das Todi College (supra)**. The executing Court shall ensure compliance accordingly.

7. These writ petitions with pending application, if any, stands disposed of.

(ASHOK KUMAR JAIN),J