

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 15948/2025

1. Anita Kumari W/o Nahar Singh, Aged About 35 Years, R/o Of Ward No. 3 Todi, Gudhagonjira, District Jhunjhunu (Raj.) - 333022.
2. Vikas Yadav S/o Gokul Prasad Yadav, Aged About 24 Years, R/o Village Raopura, Tehsil Shahpura, Jaipur (Raj.) 303804.
3. Krishan Kani Sharma S/o Chiranjilal Sharma, R/o Sanvalpura Shekhavtan, Shrimadhampur, Tehsil Sikar (Raj.) 332707.

-----Petitioners

Versus

1. The Medical Officer In Charge, Urban Ayushman Arogya Mandir, Vidhyadhar Nagar, Shekhawati, Jaipur Pratham (Raj.)
2. The In-Charge Medical Officer, Janata Clinic Vidhyadhar Nagar, Shekhawati, Jaipur First (Raj.)
3. Managing Director, Aqsa Construction And Labour Suppliers, Jodhpur (Raj.)
4. The Medical Officer In-Charge, Ayushman Arogya Mandir, Urban Primary Health Centre, Thahar Ke Balaji, Jaipur Pratham (Raj.)
5. State Of Rajasthan, Through Its Director, Medical And Health Department Secretariat, Jaipur (Raj.)

-----Respondents

Connected With

S.B. Civil Writ Petition No. 7449/2025

Sapna Khatik D/o Late Shri Lal Chand Khatik, Aged About 35 Years, Resident Of Fatehpura Bansa,tehsil Chomu District Jaipur (Raj.)

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Medical And Health Department, Govt. Secretariat, Jaipur (Raj.)
2. President, Rajasthan Medical Relief Society, District Collector Jaipur.

3. Medical Officer In-Charge, Government Primary Health Centre Jahota, Amer, District (Jaipur First) (Raj.)
4. Chief Medical And Health Officer, Amer, Jaipur.

-----Respondents

S.B. Civil Writ Petition No. 16028/2025

1. Madan Lal Mali S/o Chhotu Ram Mali, R/o Vpo- Chonp, Via- Morija, Tehsil- Amer, Jaipur (Raj.).
2. Bodu Ram Saini S/o Babu Lal Saini, R/o Madar Kala Via Samot, Tehsil Chomu, District Jaipur (Raj.)

-----Petitioners

Versus

1. The State Of Rajasthan, Through Its Secretary, Medical And Health Department, Government, Secretariat, Jaipur.
2. The Director (Non-Gazetted), Medical And Health Services, Rajasthan, Jaipur.
3. Chief Medical And Health Officer, Jaipur First (Raj.).
4. The Medical Officer In Charge, Medical Relief Society Govt. Primary Health Centre, Chonp Block Amer, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Govind Upadhyay
For Respondent(s)	:	Mr. Archit Bohra, AGC

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

13/11/2025

1. These writ petitions are tagged together as they raised common question.
2. Learned counsel for petitioners while placing reliance upon **order dated 03.10.2025 in S.B. Civil Writ Petition No.15232/2025 titled as Dr. Vijay Kumar Saini Vs.**

State of Rajasthan and Ors. passed by a Co-ordinate Bench of this Court and **order dated 19.08.2025 in S.B. CWP No.15185/2025 titled as Sarvan Kumar and Ors. Vs. State of Rajasthan and Ors.** passed by a Co-ordinate Bench of this Court at Principal Seat, Jodhpur submits that the controversy raised herein is already considered by Co-ordinate Bench and petitioners are entitled for benefit of ratio as laid down by this Hon'ble Court.

3. Mr. Archit Bohra, AGC on behalf of respondent accepts notice. Office is directed to reflect his name as counsel for respondent.
4. In SB CWP No.7449/2025, a Co-ordinate Bench, which passed the order in SB CWP No.15232/2025 titled as **Dr. Vijay Kumar Saini Vs. State of Rajasthan and Ors. (supra)** has directed petitioner(s) to file bank statement showing payment from 2013 to 2024 but incomplete details were filed with application on 29.10.2025.
5. Another **writ petition No.14835/2021 titled as Ram Khilari and Ors. Vs. State of Rajasthan and Ors.** was dismissed by a Co-ordinate Bench of this Court on 23.05.2025 on the basis of judgments in case of **Amita Singh and Ors. Vs. State of Rajasthan and Ors.: SB CWP No.4381/2024 and other connected matters** which is based on judgment in case of **K.K. Suresh and Anr. Vs. Union of India AIR 2018 Supreme Court 3095, Rakesh Kumar and Ors. Vs. State of Rajasthan and Ors.: D.B. Special Appeal Writ No.1040/2021 and**

Mooli Devi Choudhary and Ors. Vs. Sate of Rajasthan and Ors.: MANU/RH/0725/2010.

6. The operative portion of judgment dated 23.05.2025 in case of **Ram Khilari and Ors. Vs. State of Rajasthan and Ors. (supra)** along with reasons assigned by the Co-ordinate Bench is reproduced as under:

"In view of the undisputed facts that the petitioners have been engaged through a placement agency having no privity of contract with the official respondents and they were not selected and appointed by the placement agency through a fair and transparent process, no further fact is required to be referred for decision of the controversy involved in the matter. The only issue remains to be examined is as to right of the petitioners to seek a writ of mandamus against the official respondents for their continuation in service and other ancillary benefits.

This Court has, in the case of **Rohitash Verma and Others (supra)**, involving identical controversy, after scanning a catena of precedential law of this Court as also of the Hon'ble Supreme Court, held as under:-

"A panoramic view of the aforesaid judgements of the Hon'ble Supreme Court as also of this Court makes the position clear that a contractual employee appointed without facing a fair/transparent mode of selection, has no right to continue and the principle that no contractual employee can

be replaced by another contractual employee, does not come to his rescue.

Indisputably, in the case in hand, the petitioners were hired by the placement agency without following any such fair/transparent procedure of selection and hence, they have no right to continue in service."

The aforesaid judgement has been upheld by a Division Bench of this Court by its judgement dated 20.12.2021 while dismissing **D.B. Special Appeal (Writ) No.1040//2021:Rakesh Kumar and Others vs. State of Rajasthan and Others** preferred there against in following terms:-

"This quite apart, there was clear agreement between the Government and the service provider which was essentially for providing the workforce for implementing the scheme. The entire responsibility of providing the workforce was on the service provider. The agreement clearly envisaged that upon completion of the tenure of the contract the workforce provided by the service provider would be withdrawn. In clear terms thus there was no privity of contract between Government and the petitioners. This is not a case of engagement of the employees by the Government on contractual basis. The contract was between the Government and the service provider and if at all it may be an understanding between the service provider and the petitioners. In any case, the engagement cannot be seen as engagement of the petitioners by the

Government on contractual basis. Any other view would make the task of the service provider wholly redundant and would also amount to overriding the agreement between the Government and the service provider. The general principle therefore that (D.B. SAW/922/2025 has been filed in this matter. Please refer the same for further orders) one set of contractual employees cannot be replaced by the another set of contractual employees as long as the work lasts cannot be applied in the present case. In the result all the appeals are dismissed. Pending application if any also stand disposed of."

A co-ordinate Bench has, in the case of **Amita Singh Vs. State of Rajasthan and Others: S.B. Civil Writ Petition No.4381/2024** and other connected matters involving identical controversy, relying upon a judgement of the Hon'ble Supreme Court in the case of **K.K. Suresh and Another Vs. Union of India: AIR 2018 Supreme Court 3095**, held that the persons appointed through placement agency with no privity of contract with the official respondents could not claim any right to continue and their termination from services was held to be valid.

The **D.B. Special Appeal (Writ) No.326/2024: Amita Singh Vs. State of Rajasthan and other connected matters** preferred against the aforesaid judgement came to be dismissed by a Division Bench of this Court vide judgement dated 20.05.2024 holding that in absence of any master

servant relationship between the appellants and the respondent-JDA, the learned Single Judge has rightly dismissed the writ petition. Therefore, in the backdrop of aforesaid precedential law, this Court has no hesitation in holding that the petitioners are not entitled to seek a writ of mandamus against the official respondent, in absence of any privity of contract in between them, to keep them engaged in contractual services without intervention of the placement agency.

The judgements relied upon by the learned counsel for the petitioners are of no help to them.

In the case of **Mitendra Singh Rathore and 121 others** (supra), a Division Bench of this Court was considering the validity of proviso second to Rule 273 of the Rajasthan Panchayati Raj Rules, 1996 which provided for grant of bonus marks for appointment of the post of LDC on the basis of experience on the specified post but the persons employed through placement agencies were excluded from the purview of this benefit. Holding that the classification carved out under the relevant rule had no reasonable nexus with the object sought to be achieved, the persons employed through the placement agency were also held entitled for grant of bonus marks based on their experience. However, no such situation obtains in the instant case wherein, the persons appointed through placement agency are claiming a right of continuance in service.

In the case of **Jaggo** (supra), the question involved was of regularization of the appellants who were engaged by the Central Water Commission as Safaiwala and Khalasi/Mali. Holding that the work being discharged by them was of perennial nature, they have rendered sufficiently long service and the individuals with lesser tenure or comparable rolls were regularised by the respondents, a direction was issued for their regularization. The facts of the case do not reveal that the appellants therein were employed through placement agency; rather, were appointed directly by the official respondents which is not the case herein.

In case of **Mooli Devi Choudhary & Ors. vs. State of Raj.& Ors., MANU/RH/0725/2010: 2010 (4) WLC (Raj.) 334**, a coordinate bench of this Court held the engagement of petitioners-teachers under Sarva Shiksha Abhiyan, a project launched by the Government of India for achievement of Universalization of Elementary Education within the time frame as mandated by the 86th Amendment to the Constitution and/or Kasturba Gandhi Balika Vidhyalaya, the scheme for setting up residential school at Upper Primary School for girls belonging predominantly to the Scheduled Caste/Scheduled Tribes/OBC and minority communities respectively, through placement agency to be unconstitutional and refused to acknowledge such teachers as the employees of the private placement agencies in absence of any enactment by the State Government to engage such employees

through the private placement agency. It was further held that employment of the teachers is part of the sovereign function of the State Government/Central Government of imparting education and such sovereign function including employment of the teachers imparting education could not be delegated to the private placement agency. This case is clearly distinguishable. Herein, the petitioners have been employed through placement agency as security guard by the concerned Gram Panchayat which, by no stretch of imagination, can be reckoned as a part of the sovereign function of the State.

Further, a co-ordinate Bench of this Court has, in the case of **Saitan Ram and Others Vs. State of Rajasthan and Others: MANU/RH/0754/2016**, while dealing with the cases wherein, services of the petitioners working as Class IV Employee and Computer Operator in the Government Colleges through placement agency were terminated, distinguishing the judgement in the case of Mooli Devi Choudhary (supra), held that in absence of privity of contract in between the petitioners and the State, no interference was warranted. Resultantly, the writ petitions were dismissed.

Another co-ordinate Bench of this Court, in the case of **Madan Lal Meena and Others Vs. State of Rajasthan and Others: S.B. Civil Writ Petition No.9828/2012** and another connected matter involving identical controversy, vide its order dated 05.05.2015, after referring to the judgement of this Court in the case of **Mooli Devi Choudhary and**

Others (supra), held that no right is accrued to the petitioners to remain in service because their services were utilised through placement agency and this Court has passed an order not to provide appointment through placement agency in Mooli Devi's case. It was further held that in absence of any appointment order issued by the Government in favour of the petitioners, no direction could be issued to the State to continue their services in respective post in a scheme.

The upshot of the aforesaid discussion is that the writ petition is devoid of merit and is dismissed accordingly."

7. In case of **Anita Kumari and Ors. Vs. Medical Officer Incharge and Ors. (SB CWP No.15984/2025)** the petitioners are engaged through human resource service provider and same is evident from the documents submitted by the petitioners. The petitioners are not having direct contractual engagement with respondent Nos. 1,2, 4 and 5. The engagement is with respondent No.3, who is a private service provider.
8. In CWP No.7449/2025 Sapna Khatik, the engagement is between M/s Sukriti and petitioner thus there is no direct privity of contract between petitioner and government department respondents.
9. In CWP No.16028/2025 again filed by two petitioners Madan Lal and Bodhu Ram, both are having contracts with M/s Sukriti and no direct privity of contract with respondents.
10. There is no direct privity of contract between petitioner(s) and the government department. The engagement is

through RTTP Act and the rules made thereunder, through a human resource service provider. Thus the case is squarely covered by judgment dated 23.05.2025 in case of **Ram Khilari (supra)**.

11. In absence of any appointment letter and a privity of contract with the government or any officer of the Government, the petitioners have no case to seek direction to continue their service in government department (respondents). No order can be passed in a writ petition against the private respondent as he is having a contract for a particular financial year and his term of contract cannot be extended against the rules. Therefore no case is made out for interference by this Court.
12. In view of discussion made hereinabove, the interim order dated 03.10.2025 in case of **Dr. Vijay Kumar Saini Vs. State of Rajasthan and Ors. (supra)** and order dated 19.08.2025 in case of **Sarvan Kumar and Ors. Vs. State of Rajasthan and Ors. (supra)** are not applicable in the facts of the case, thus the writ petitions are liable to be dismissed.
13. Accordingly, the writ petition Nos. 15948/2025, 7449/2025 and 16028/2025 along with pending application, if any, are hereby dismissed.
14. No order as to costs.

(ASHOK KUMAR JAIN),J