


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 19839/2025

Dr. Yash Vardhan S/o Dinesh Kumar Sonkar, and Ors.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents

For Petitioner(s) : Mr. Arvind Kumar Singh
For Respondent(s) : Ms. Tanvisha Pant for
Mr. Vigyan Shah, AAG

HON'BLE MR. JUSTICE ANUROOP SINGHI
Order

16/02/2026

1. The matter comes up on an application No.1/2026 filed by applicant/petitioner No.2 – Dr. Sahil Gautam, stating that he has been shortlisted for an interview for the post of SR-ship at All India Institute of Medical Sciences (**AIIMS**), Delhi, which is an Institute of National Importance (**INI**) and for appearing in the said interview, he requires his original documents and thus, respondents be directed to release the original documents to the applicant/petitioner No.2 upon an undertaking being furnished by him of serving the bond period with the State of Rajasthan after completion of his tenure at AIIMS, Delhi.

2. As the candidates are required to appear in-person for interview along with their original documents, it is then that the present controversy arose, as the original documents of the applicant/petitioner No.2 were in the custody of the respondents, with whom he has also executed a service bond.

3. Mr. Arvind Kumar Singh, learned counsel for the applicant/petitioner No.2 has filed an additional affidavit of the applicant/petitioner No.2, to submit that AIIMS, Delhi, issued an

advertisement on 20.11.2025, in pursuance to which, online application was filled by the applicant/petitioner No.2 on 01.12.2025 and examination was held on 03.01.2026, result of which was declared on 09.01.2026, in consequence to which, the interview of the applicant/petitioner No.2 was held on 20.01.2026. Learned counsel further submits that the applicant/petitioner No.2 has been issued an allotment letter on 05.02.2026, which has been submitted as Annexure – AA1.

4. Learned counsel for the applicant/petitioner No.2 submits that at the time of applying in terms of advertisement dated 20.11.2025, reliance was placed by him on the circular dated 01.04.2025 issued by State of Rajasthan, Clause-15 of which provides that if a candidate is selected for a fellowship in an Institute of National Importance (INI), he/she may be permitted for the same, subject to he/she furnishing an undertaking to the effect that after completion of the fellowship, the candidates shall return and fulfill the remaining tenure of their resident-ship in State of Rajasthan.

5. Learned counsel for the petitioner further submits that applicant/petitioner No.2 is ready and willing to furnish an undertaking to the respondents that he will serve the State Government for the period as stipulated in the bond executed and submitted by him after completion of the tenure of his SR-ship at AIIMS, Delhi and therefore, prays that the original documents of applicant/petitioner No.2 be accordingly released.

6. Learned counsel in support of the said submissions relied upon the orders passed by this Court in the case of;

- i) **Dr. Rohit Yadav Vs. State of Rajasthan & Ors., S.B. Civil Writ Petition No.10255/2025**, dated 28.08.2025;
- ii) **Dr. Babita Vs. State of Rajasthan & Ors., S.B. Civil Writ Petition No.581/2026**, dated 16.01.2026 and
- iii) **Dr. Asif Vs. State of Rajasthan & Ors., S.B. Civil Writ Petition No.851/2026**, dated 16.01.2026.

7. Learned counsel further submits that all the petitioners in the above referred petitions have furnished an undertaking as required by the orders passed therein, in consequence to which, their original documents have been released by the State of Rajasthan and hence, the applicant/petitioner No.2 cannot be discriminated.

8. Learned counsel further submits that this Court in the case of **Dr. Rohit Yadav (supra)** has duly considered the circular dated 01.04.2025 and has held that the said circular will duly apply in the case of SR-ship being done by a candidate at an INI.

9. Learned counsel further submits that as all the relevant events, viz., i) issuance of advertisement dated 20.11.2025; ii) submissions of online application 01.12.2025; iii) holding of examination dated 03.01.2026; iv) declaration of result of examination dated 09.01.2026; v) holding of interview dated 20.01.2026, have taken place much prior to 28.01.2026, the said circular dated 28.01.2026 issued by State of Rajasthan, which imposes an onerous condition of furnishing bank guarantee by the applicant/petitioner No.2 of an amount equivalent to the amount of service bond for seeking release of original documents even for going to an INI for SR-ship will not be applicable and the applicant/petitioner No.2 would continue to be governed by the

circular dated 01.04.2025, which was very much in effect and operation on all the relevant/crucial dates.

10. Learned counsel further submits that the rules of the game have to be the same which were in force on the relevant dates and cannot be changed at the fag end and thus, the circular dated 28.01.2026 which came to be issued much after the happening of the relevant events cannot be applied to the applicant/petitioner No.2.

Therefore, learned counsel for the applicant/petitioner No.2 submits that it is the circular dated 01.04.2025 which will be applicable upon the applicant/petitioner No.2 and accordingly, his original documents be released by applying the same conditions as stipulated therein and as were imposed in the cases of other candidates viz., **Dr. Babita (supra)** and **Dr. Asif (supra)**. Learned counsel also placed reliance upon order dated 10.02.2026 passed by this Court in **S.B. Civil Writ Petition No. 18011/2025**, titled as **Dr. Harshpreet Kaur & Ors. Vs. State of Rajasthan & Ors.**

11. *Per contra*, Mr. Vigyan Shah, learned Additional Advocate General, emphatically submits that the applicant/petitioner No.2 is duly governed and bound by the orders issued by the State Government from time to time and it is not upon the candidates to pick and choose with respect to the applicability of the orders issued by the State Government.

12. Despite taking admission for Post Graduation (P.G.) course in the year 2022, once the petitioner/applicant is wanting to be governed by the order dated 01.04.2025, under no circumstances he can run away from the applicability of the circular dated

28.01.2026, which as on date holds the field. That being so, the conditions with respect to furnishing the bank guarantee equivalent to the bond amount for the purposes of joining any INI for SR-ship is a condition which is *sine qua non* for seeking release of the original documents.

13. Learned AAG further submits that the order dated 01.04.2025 applies only to 'fellowship' and thus, would render no assistance to the applicant/petitioner who is concerned with the SR-ship.

14. Learned AAG also submits that the order passed by this Court in ***Dr. Rohit Yadav (supra)*** would not apply in the case of the applicant/petitioner No.2 as the said order itself refers to the case of ***Dr. Nishant Gopal & Ors. Vs. State of Rajasthan & Ors.*** in ***S.B. Civil Writ Petition No.12611/2022***, which confirms that the said judgment was passed in the context of a student pertaining to the batch of year 2021, whereas the applicant/petitioner No.2 is of batch of year 2022 and there is a significant difference in the conditions *qua* release of original documents for the students pertaining to the batch of year 2022.

15. Learned AAG finally submits that no pleading has been made in the said writ petition with respect to the petitioner joining INI and thus, there was no occasion for the respondents to file any reply to the said averment and the said plea has been raised only by way of an application.

16. Learned AAG further submits that the case of the applicant/petitioner No.2 cannot be compared with the case of ***Dr. Babita (supra)*** and ***Dr. Asif (supra)*** as both the said orders were passed on 16.01.2026 when the recent circular dated

28.01.2026 was not issued and once the said circular has been issued, which specifically supersedes all the earlier circulars, the case of the applicant/petitioner No.2 has to be evaluated on the basis of terms and conditions of the circular dated 28.01.2026.

17. Heard learned counsel for the parties.

18. It is a matter of fact that no reply to the application under consideration or counter to the additional affidavit has been filed by the State.

It is not in dispute that the order which provides for submission of bank guarantee by the petitioners equivalent to the amount of service bond has been issued by the State of Rajasthan on 28.01.2026 and thus, there was no occasion whatsoever for any candidate to presume or apprehend imposition of any such condition prior to the said order coming into effect.

19. It is also a matter of record that prior to issuance of circular dated 28.01.2026, the circular dated 01.04.2025 was holding its field.

Clause 15 of the circular dated 01.04.2025 reads as under:-

"15. यदि कोई छात्र किसी *Institute of National Importance* (AIIMS, PGI, JIPMER) में *Fellowship* फे लिए चयनित होता है तो उसे भी *Fellowships* उपरान्त 2 वर्ष की राज्य में राजकीय सेवा देने की शर्त पर ही अनुमति दी जायेगी।"

And, Clause 15 of the circular dated 28.01.2026 reads as under:-

"15. यदि कोई अभ्यर्थी स्नातकोत्तर अथवा सुपर स्पेशियलिटी पाठ्यक्रम पूर्ण करने के उपरांत किसी 'इंस्टीट्यूट ऑफ नेशनल इम्पोर्टस' (Any AIIMS/ PGI Chandigarh, JIPMER) तथा अन्य 'इंस्टीट्यूट ऑफ नेशनल इम्पोर्टस' संस्थान) में सीनियर रेजीडेन्सी हेतु चयनित होता है, तो उसे राज्य सरकार /

संस्थान द्वारा बांड राशि के समतुल्य बैंक गारंटी जमा कराने पर अनुमति दी जा सकेगी।”

Clause 15 of both these circulars deals with the situation where a candidate is willing to join an INI.

20. Though, the respondents seriously dispute the applicability of Clause 15 of the circular dated 01.04.2025 upon SR-ship on the ground that the word used in Clause 15 of the circular dated 01.04.2025 is “Fellowship” and not “SR-ship”, this Court in the case of **Dr. Rohit Yadav (supra)** considered the issue of SR-ship has duly referred to the order dated 01.04.2025 and has held as under:-

“16. Considering the submissions made by the learned counsel for the parties, taking note of the judgments cited at Bar and upon assiduous perusal of the records, this Court has made the following observations:

16.1 That PGIMER Chandigarh is an Institute of National Importance.

16.2 That the RNT college, Udaipur upon an undertaking released the original documents of the petitioner.

16.3 That the respondent No.3 has not released the provisional degree and NOC of the petitioner.

16.4 That the circular dated 01.04.2025 issued by the Secretary permits the candidate for pursuing program/service in an Institute of National Importance for the respective period and thereafter completing remaining years of service as per Bond condition.

17. While placing reliance upon Article 19 and 21 of the Constitution of India, 1950 and taking note of the fact that the petitioner has expressed his willingness to serve as a Senior Resident with the

State for the remaining period, this Court in the interest of justice deems it apposite to allow the present petition with the following directions:

17.1 Provisional degree of the petitioner be released along with NOC and requisite documents, if any.

*17.2 An undertaking in pursuance to the dictum passed in judgment **Dr. Nishant Gopal (Supra)**, as on date be furnished to the State Government assuring compliance of the remaining Bond period in future.*

17.3 PGIMER Chandigarh to permit the petitioner to continue on the post of Senior Resident without any break.

17.4 Respondent No.3 is directed to release requisite documents and NOC in favor of PGI Chandigarh."

Thus, it is not open for the respondents to argue that the Clause 15 of the circular dated 01.04.2025 will not apply on a candidate willing to join an INI for SR-ship.

21. Now, comparing Clause 15 of both the circulars i.e., circular dated 01.04.2025 and circular dated 28.01.2026, it is evident that the circular dated 28.01.2026 imposes an onerous condition upon the candidates of furnishing a bank guarantee equivalent to the amount of service bond. As the said circular came into effect only on 28.01.2026 and the applicant/petitioner No.2 has applied at AIIMS, Delhi for SR-ship in pursuance to an Advertisement dated 20.11.2025, which was issued much prior to issuance of the circular dated 28.01.2026 and even the online application form was filled on 01.12.2025 in pursuance to which, the examination was held on 03.01.2026, result of which was declared on 09.01.2026 and even the interview was held on 20.01.2026, this

Court has no hesitation in holding that the applicant/petitioner No.2 would stand governed by circular dated 01.04.2025 and circular dated 28.01.2026 cannot be applied retrospectively upon the applicant/petitioner No.2 herein. It is more than settled that a circular cannot be applied retrospectively, more so to the detriment of a candidate who has already participated in the recruitment process on the basis of a circular which was existing on the date of commencement of the recruitment process.

22. It is also well established that a recruitment process commences with date of issuance of the Advertisement for recruitment. Applying the circular dated 28.01.2026 upon a recruitment process which has already commenced by issuance of the Advertisement on 20.11.2025 would tantamount to altering the rules of the game mid-way and that too, without any rationale, transparency or justification.

23. Reliance is placed upon the judgment of the Constitution Bench of the Hon'ble Supreme Court in the case of **Tej Prakash Pathak and Ors. Vs. Rajasthan High Court and others**, reported in **(2025) 2 SCC 1**, relevant paragraphs of which reads as under:-

"52. Thus, in our view, the appointing authority/recruiting authority/competent authority, in absence of rules to the contrary, can devise a procedure for selection of a candidate suitable to the post and while doing so it may also set benchmarks for different stages of the recruitment process including written examination and interview. However, if any such benchmark is set, the same should be stipulated before the commencement of the recruitment process. But if the extant Rules or the advertisement inviting applications empower the competent authority to set

benchmarks at different stages of the recruitment process, then such benchmarks may be set any time before that stage is reached so that neither the candidate nor the evaluator/examiner/interviewer is taken by surprise.

53. *The decision in K. Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512 : (2008) 1 SCC (L&S) 841] does not proscribe setting of benchmarks for various stages of the recruitment process but mandates that it should not be set after the stage is over, in other words after the game has already been played. This view is in consonance with the rule against arbitrariness enshrined in Article 14 of the Constitution and meets the legitimate expectation of the candidates as also the requirement of transparency in recruitment to public services and thereby obviates malpractices in preparation of select list.*

....

Conclusions

65. We, therefore, answer the reference in the following terms:

65.1. *Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;*

65.2. Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

65.3. *The decision in K. Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512 : (2008) 1 SCC (L&S) 841] lays down good law and is not in conflict with the decision in Subash Chander Marwaha [State of Haryana*

v. Subash Chander Marwaha, (1974) 3 SCC 220 : 1973 SCC (L&S) 488] . Subash Chander Marwaha [State of Haryana v. Subash Chander Marwaha, (1974) 3 SCC 220 : 1973 SCC (L&S) 488] deals with the right to be appointed from the select list whereas K. Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512 : (2008) 1 SCC (L&S) 841] deals with the right to be placed in the select list. The two cases therefore deal with altogether different issues;

65.4. *Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, nondiscriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved;*

65.5. *Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the rules are non-existent, or silent, administrative instructions may fill in the gaps;*

65.6. *Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list."*

24. Recently also the Hon'ble Supreme Court in **Special Leave Petition (C) No.22323/2023**, titled as **Abhay Kumar Patel & Ors. Vs. State of Bihar & Ors.**, has held that the selection process has to be finalized in accordance with the rules as they exist on the date of the Advertisement.

25. Further, the case of the applicant/petitioner No.2 cannot be distinguished with that of the case of **Dr. Babita (supra)** and **Dr. Asif (supra)** and the terms and conditions for release of original

documents of the applicant/petitioner No.2 have to be similar with that of **Dr. Babita (supra)** and **Dr. Asif (supra)**.

26. The relevant extract of the order dated 16.01.2026 passed in the case of **Dr. Babita (supra)**, reads as under:-

"3. *Considering the facts obtained, the application for interim relief is disposed of in the terms that, as the petitioner has qualified the written examination of AIIMS, New Delhi, which is an Institute of National Importance (INI) and has been called for an interview for SR-ship at AIIMS, New Delhi, alongwith her original documents, the respondents are directed to release the original documents of the petitioner, immediately on furnishing of an undertaking by the petitioner to the effect that she would serve the State Government for the period as stipulated in the bond executed and submitted by her after completion of the tenure of her SR-ship at AIIMS, New Delhi. The undertaking would also state that in the event of she failing to serve the State Government, she would pay the amount to the State Government as mentioned in the bond.*

4. *As the petitioner has duly submitted her willingness to furnish the undertaking and even the learned counsel for the petitioner has made the said submission at bar, a copy of the undertaking so furnished by the petitioner be also filed before this Court and be made part of the record so as to ensure that the conditions stipulated in the undertaking are duly adhered to by the petitioner. The undertaking is to be filed before this Court within one week of furnishing of the same with the State Government.*

5. *It is also clarified that the said directions for release of documents are being issued in the peculiar facts and circumstances of this case, more particularly considering the fact that the petitioner*

has been granted SR-ship at AIIMS, New Delhi, which is an Institute of National Importance. Further, since the interview is scheduled on 19.01.2026, in case the said undertaking is furnished by the petitioner, the respondents are directed to release the original documents to the petitioner forthwith."

27. The objection raised by the respondent that the order passed by this Court in the case of **Dr. Rohit Yadav (supra)** will not assist the applicant/petitioner No.2 as the said order refers to the case of **Dr. Nishant Gopal (supra)** which relates to the batch of year 2021 when the conditions for release of documents were different, will also not come to the rescue of the respondents as the issue with respect to the validity of the conditions in the service bond and the information booklet was neither an issue in case of **Dr. Rohit Yadav (supra)** nor is an issue in the present case.

28. In that view of the matter, as the applicant/petitioner No.2 has qualified the written examination of the AIIMS, Delhi, which is an INI and has been called for an interview for SR-ship at AIIMS, Delhi, along with his original documents, the respondents are directed to release the original documents of the applicant/petitioner No.2, immediately on furnishing of an undertaking by the applicant/petitioner No.2 to the effect that he would serve the State Government for the period as stipulated in the bond executed and submitted by him after completion of the tenure of his SR-ship at AIIMS, Delhi. The undertaking would also state that in the event of he failing to serve the State Government, he would pay the amount to the State Government as mentioned in the bond.

29. As the applicant/petitioner No.2 has duly submitted his willingness to furnish the undertaking and even the learned counsel for the applicant/petitioner No.2 has made the said submission at bar, a copy of the undertaking so furnished by the applicant/petitioner No.2 be also filed before this Court and be made part of the record so as to ensure that the conditions stipulated in the undertaking are duly adhered to by the petitioner No.2. The undertaking is to be filed before this Court within one week of furnishing of the same with the State Government.

30. It is also clarified that the said directions for release of documents are being issued in the peculiar facts and circumstances of this case, more particularly considering the fact that the petitioner No.2 has been granted SR-ship at AIIMS, Delhi, which is an INI.

31. At this stage, Mr. Vigyan Shah, learned AAG, has specifically pointed out that the applicant/petitioner No.2 is yet to join at AIIMS, Delhi. In case, if he fails to join AIIMS, Delhi, he would be mandatorily required to handover the original document to the State Government within a period of seven days from the said rejection/non-joining of the applicant/petitioner.

32. Accordingly, the said application No.1/2026 stands disposed of.

(ANUROOP SINGHI),J