

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 10354/2025

1. Modern Academy Senior Secondary School Management Committee, Bhiwadi, Alwar Through Secretary, Bhiwadi, Alwar.
2. Principal, Modern Academy Senior Secondary School, Bhiwadi, Alwar.

----Petitioners

Versus

1. Smt. Rajkishori Pandey W/o Shri Shyam Charan Pandey, R/o 8/346, U.i.t. Colony, Bhiwadi, Alwar.
2. Director, Secondary Education, Bikaner, Rajasthan.
3. District Education Officer, Secondary Education, Alwar.

----Respondents

Connected With

S.B. Civil Writ Petition No. 382/2026

Smt. Rajkishori Pandey W/o Sh. Shyama Charan Pandey, Aged About 60 Years, R/o 8/346, U.i.t. Colony, Bhiwari, Alwar.

----Petitioner

Versus

1. The Management Committee Of The Modern Academy Senior Secondary School, Through Its Secretary, Bhiwadi, District Alwar (Raj.)
2. The Principal, Modern Academy Senior Secondary School Bhiwadi, District Alwar (Raj.)
3. The Director, Secondary Education, Near Lalgah Palace, Bikaner (Raj)- 334001.
4. The District Education Officer (Deo) Secondary, Alwar (Raj.)

----Respondents

For Petitioner(s)	:	Mr. Ankul Gupta
For Respondent(s)	:	Mr. Vikram Singh Nain

HON'BLE MR. JUSTICE ANAND SHARMA

09/02/2026

In S.B. Civil Writ Petition No. 10354/2025:-

1. Petitioners have challenged order dated 28.05.2025 passed by Rajasthan Non-Government Educational Institution Tribunal, Jaipur whereby, application under Section 21 filed by respondent No.1 has been allowed and termination order dated 03.06.2009 has been quashed with further direction was given to the petitioners to reinstate respondent No.1 by maintaining continuity in service and with all consequential benefits.

2. Facts in brief are that the respondent No.1 filed an application under Section 21 of the Rajasthan Non-Government Educational Institution Act, 1989 (for short the 'Act of 1989') stating therein that she was initially appointed as Teacher on 24.07.1991 and thereafter, she worked as officiating Principal up to March, 2001 and later on, the petitioner was promoted on the post of Lecturer (Hindi Literature) on 14.08.2004.

3. On account of alleged irregularities with regard to safeguarding the examination papers and in conducting the examination, the respondent No.1 was placed under suspension vide order dated 04.03.2009. Thereafter, without following any due procedure and without conducting departmental enquiry vide order dated 03.06.2009, services of the respondent No.1 were terminated leveling allegations and the order was stigmatic in nature. It was submitted that provisions of Rule 39 of Rajasthan Non-Government Educational Institution Rules, 1993 (for short 'Rules of 1993') were not followed and even, the alleged termination/removal order dated 03.06.2009 was issued by

incompetent authority. It was stated in the application by the respondent No.1 that the alleged disciplinary enquiry was simply an eyewash and no due opportunity was given to her whereas, she was not at all responsible for any irregularity whatsoever therefore, the respondent No.1 prayed for quashing the order dated 03.06.2009 and further verbal dismissal order dated 01.07.2009.

4. Learned counsel for the petitioners submits that reply to the application was filed by the petitioners raising an objection with regard to maintainability of application under Section 21 of the Act of 1989 and it was also submitted that petitioners' school is not an aided institution as it is not receiving any grant in aid from the State Government under the Rules of 1993. It was submitted that the enquiry against the respondent No.1 was conducted in view of directions given by District Education Officer so as to take disciplinary action against the erring officer who has committed serious irregularities in conducting the Board examination. It was submitted that due opportunity of hearing was given to the respondent No.1; however, she did not cooperate in the enquiry, nor did she submit any proper defence against the charges leveled against her. Under these circumstances, order dated 03.06.2009 was issued by the petitioners in which, there was no illegality or infirmity. Hence, the application filed by the respondent was liable to be rejected.

5. It is submitted by learned counsel for the petitioners that the petitioners raised an objection with regard to maintainability of application under Section 21 of the Act of 1989 therefore, on such objection, an application dated 24.04.2025 was

filed by the respondent No.1 for converting the application into appeal. Learned counsel submits that the said application was never decided by the Tribunal till the final order dated 28.05.2025. Learned counsel submits that there is a provision of filing appeal within the limitation under Section 19 of the Act of 1989. Hence, in case, any order for converting application under Section 21 into appeal under Section 19 then in that case, the petitioner would have got opportunity to raise an objection with regard to limitation; however, since the application for conversion filed by the respondent No.1 on 24.04.2025 was decided by Tribunal vide final order dated 28.05.2025 therefore, the petitioner was deprived of raising such objection, which has caused serious prejudice and miscarriage of justice to the petitioner. It was also submitted that although, the order dated 03.06.2009 has been quashed by the Tribunal for violation of provisions of Section 18 of the Act of 1989 and Rule 39 of the Rules of 1993 yet, there were no such pleadings in the application under Section 21 filed by respondent no.1. Learned counsel submits that since, there were no pleadings in this regard therefore, the petitioners had no opportunity to controvert the fact as to whether compliance of Section 18 of the Act of 1989 and Rule 39 of the Rules of 1993 was made or not. Thus, the order dated 28.05.2025 is beyond the pleadings made by the respondent No.1 and hence, the Tribunal has committed serious error of law and jurisdiction in passing the order dated 28.05.2025.

6. Learned counsel for the respondents opposed the writ petition and supported the order dated 28.05.2025 and submitted that the order has been passed strictly in accordance with law

after meticulously examining the facts of the case, material available on record and law prevailing at the relevant time.

7. However, learned counsel for the respondents could not dispute the fact that the provision for conversion of application under Section 21 into appeal under Section 19 was considered and decided by the Tribunal along with final order dated 28.05.2025, nor could he show any specific pleadings with regard to facts highlighting violation of Section 18 of the Act of 1989 and Rules 1993.

8. Heard learned counsel for the parties and perused the record.

9. It is a matter of record that the application dated 24.04.2025 filed by the respondent No.1 for conversion of application under Section 21 into appeal under Section 19 of the Act of 1993 was never decided prior to final disposal dated 28.05.2025 and was in fact, decided along with the main application therefore, the petitioners did not have any opportunity to raise objection with regard to limitation. On perusal of the pleadings made by respondent No.1 before the Tribunal, it comes out that order dated 28.05.2025 has been passed by learned Tribunal beyond the pleadings of respondent No.1.

10. Hence, under these circumstances, this Court deems it just and proper to set aside the order dated 28.05.2025 passed by the Tribunal with further directions to decide the matter afresh after giving fresh opportunity to both the parties to raise their objections and to file additional pleadings. Since, the matter pertains to the year 2009 therefore, learned Tribunal is expected

to decide the same expeditiously and preferably within the period of one year from the date of receipt of copy of this order.

11. It is made clear that this Court has not made any comments on merits of the case and the Tribunal shall not be influenced by any of the findings given in the present order and shall decide the matter afresh on the basis of prevailing law.

S.B. Civil Writ Petition No. 382/2026:-

1. Petitioner-Ms. Rajkishori Pandey has filed this writ petition challenging the order dated 28.05.2025 only to the extent to which, the benefit of continuity in service as well as other consequential benefits have not been given to her.

2. Since, this Court while deciding S.B. Civil Writ Petition No. 10354/2025 has quashed the order dated 28.05.2025 and remanded the matter back for fresh consideration to the Tribunal therefore, under these circumstances, the writ petition filed by the petitioner is also disposed of accordingly and the petitioner is also at liberty to raise the questions raised in this writ petition before the Tribunal at the time of fresh consideration.

3. The writ petition stands disposed of.

4. Pending application(s), if any, shall stand disposed of.

(ANAND SHARMA),J