# HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 7880/2020

- 1. Indu Bala Panwar D/o Prem Sukha Panwar, Aged About 40 Years, R/o Near School No. 3, Ward No. 4, Ratangarh District Churu.
- Kailash Meena D/o Shriphool Meena, Aged About 37
  Years, R/o Village Ramnagar Dhaturi Tehsil Niwai District
  Tonk.
- 3. Shiv Ratan Sharma S/o Shri Muktilal Sharma, Aged About 36 Years, R/o Behind Jain Temple, Village Mojmabad, District Jaipur.
- 4. Binod Singh Shekhawat S/o Shri Bheem Singh Shekhawat, Aged About 36 Years, R/o Ward No. 13, Rajputon Ka Mohalla Vpo Babai, Tehsil Khetri, District Jhunjhunu.
- 5. Satveer Singh Takhar S/o Makhan Lal, Aged About 45 Years, R/o Village And Post Dalelpura, Tehsil Khetri, District Jhunjhunu.
- Lachchhu Ram Saini S/o Chhotu Ram Saini, Aged About
   41 Years, R/o Village And Post Kakrana, Via Ponkh Tehsil
   Udaipurwati, District Jhunjhunu.
- 7. Ashok Kumar S/o Banshi Lal Saini, Aged About 53 Years, R/o Ward No. 6 Kayasthon Ka Kuwa, Manota Khurdh Post Khetri Nagar District Jhunjhunu.
- 8. Pradeep Kumar Meena S/o Matadeen Meena, Aged About 44 Years, R/o 84/221, Sector 8, Pratap Nagar, Sanganer, Jaipur.
- Tarachand Sharma S/o Chhote Lal Sharma, Aged About 46 Years, R/o Ward No. 2 Village And Post Hardiya, Tehsil Khetri, District Jhunjhunu.
- 10. Vinod Kumar S/o Mohan Lal Meena, Aged About 47 Years, R/o Village And Post Gadhala Kalan Via Ponkh, Tehsil District Jhunjhunu.
- Parinita Saini D/o Satya Narayan Singh, Aged About 43
  Years, R/o Plot No. 17, Nand Van Vihar, Piprali Road,
  Sikar.
- 12. Manju Samota D/o Satya Narayan Singh, Aged About 43 Years, R/o Village And Post Lakhani Via Reengus, District Sikar.

- 13. Kiran Kumari D/o Hanuman Prasad, Aged About 39 Years, R/o Ward No. 6, Behind Court Campus, Sikar.
- 14. Manju Lamba W/o Satish Kumar Choudhary, Aged About 43 Years, R/o Village And Post Kali Pahari, Via Islampur, District Jhunjhunu.
- 15. Anita Saini D/o Madu Ram, Aged About 36 Years, R/o Village Baniya Wali Dhani, Post Bagar, District Jhunjhunu.
- 16. Bhagwati Mehar D/o Fakeer Chand Mehar, Aged About 37 Years, R/o Repala Road, Bakani District Jhalawad.
- 17. Kiran Bai Meena W/o Rajesh Meena, Aged About 42 Years, R/o Village And Post Tilwad, Via Tahala, Tehsil Rajgarh District Alwar.
- 18. Leelawati Jangid D/o Suresh Kumar Sharma, Aged About 49 Years, R/o Makan No. 61, Vikas Nagar, Near Gurav Bal Niketan, Murlipura Scheme, Jaipur.
- 19. Seema Kumari Sharma D/o Kailash Chand Sharma, Aged About 38 Years, R/o Village Mundru Tehsil Shrimadhopur, District Sikar.
- 20. Ganga Kumari Sharma D/o Bhura Lal, Aged About 50 Years, R/o 68, Shivnagar, Opposite Jaihind Vidhya Niketan, Murlipura Scheme, Jaipur.
- 21. Kanchan Verma D/o Babu Lal Verma, Aged About 35 Years, R/o New Colony Gali No. 1, Reengus, District Sikar.

----Petitioners

## Versus

- State Of Rajasthan, Through The Principal Secretary, Education Department, Government Of Rajasthan, Secretariat, Jaipur.
- 2. Director, Elementary Education, Rajasthan, Bikaner.
- 3. Director, Secondary Education, Rajasthan, Bikaner.
- 4. Chief District Education Officer, Elementary Education, Banswara.
- 5. Chief District Education Officer, Elementary Education Jaipur.
- 6. Chief District Education Officer, Elementary Education Sikar.
- 7. Chief District Education Officer, Elementary Education Alwar.

- 8. Chief District Education Officer, Elementary Education Bhilwara.
- 9. Chief District Education Officer, Elementary Education Jhalawad.
- Chief District Education Officer, Elementary Education Tonk.
- 11. Chief District Education Officer, Elementary Education Jhunjhunu.
- 12. District Education Officer, Secondary Education Jaipur.
- 13. District Education Officer, Secondary Education Sikar.
- 14. District Education Officer, Secondary Education Alwar.
- 15. District Education Officer, Secondary Education Bhilwara.
- 16. District Education Officer, Secondary Education Jhalawad.
- 17. District Education Officer, Secondary Education Tonk.
- District Education Officer, Secondary Education Jhunjhunu.
- 19. District Education Officer, Secondary Education Banswara.

----Respondents

For Petitioner(s) : Mr. Vinod Prajapat

For Respondent(s) :

## **JUSTICE DINESH MEHTA**

#### <u>Order</u>

### 04/09/2020

At the very outset, learned counsel for the petitioners submits that the controversy raised in the instant writ petition is no more res-integra in view of the adjudication made in the case of Ramesh Chand Saini & ors. Vs. State of Rajasthan & Ors.: D.B. Civil Writ Petition No. 4253/2019, wherein the Division Bench of this Court observed that:

"During the course of arguments, Mr. Ram Pratap Saini, learned counsel appearing on behalf of the petitioners has submitted that he does not press the challenge to Rule 14 of the Rules of 2008 on peculiar facts of this case provided the State Government is directed to consider petitioners' case for grant of one time relaxation to them.

Selection of the petitioners as Upper Primary Teachers was made with the Primary Teachers. Candidates of both the categories appeared in the common written examination and participated in process of selection. Common merit list was prepared, but the appointments were given on the basis of qualification/eligibility of the candidates. Appointments of the Primary Teachers were made on 24.09.2007, but the State Government delayed appointments of petitioners as Upper Primary Teachers and eventually their appointment orders were issued on 01.01.2008. In between, State Government vide notification dated 12.09.2008 promulgated Rajasthan Services(Revised Pay Scale) Rules, According to Rule 14 of the Rules of 2008, batch of the candidates appointed on the post of Primary Teachers received increment on 01.07.2010 since completed one year probation period after their appointment before the applicability of the aforesaid notification, but in the case of petitioners, since their appointment was delayed, they could not complete their probation and their increment would be delayed by one year and would be payable on 01.07.2011. Learned counsel has invited attention of the Court towards Rule 3 of the Rules of 2008, where the Governor retains the power to relax the rule in the case of undue hardship in any particular case.

Prima facie, we are satisfied that it is a case of hardship, but since the State Government has not examined this matter, we refrain from expressing any further opinion, except requiring the State Government to have the case of the petitioners examined for grant of one time relaxation, so as to consider their case and bring them at par with the Primary Teachers appointed in the same process of selection held in pursuance of same advertisement by granting them one increment, may be notionally, with effect from 01.07.2010 considering that they were actually in service on that date and even prior thereto.

We, therefore, direct the State Government to undertake necessary exercise and pass appropriate order with regard thereto within a period of four months from the date of production of copy of this order. It goes without saying that in case grievances of the petitioners are not remedied, the petitioners would be at liberty to file fresh writ petition with the same prayer as made in the present writ petition and also incorporating challenge to the order that may be passed by the State Government."

It is further contended that in *S.B.Civil Writ Petition*No.10692/2018 (Lekhraj Meena & ors. Vs. State of

Rajasthan& ors.) decided on 17.5.2018, similar view was taken
by a coordinate Bench of this Court.

Counsel further submits that the petitioners would be satisfied, if the State-respondents are directed to consider and decide the representation of the petitioners, in the backdrop of the adjudication in the case of Ramesh Chand Saini & Ors. (supra), within a time frame, which they are ready and willing to address within two weeks hereinafter.

In view of the limited prayer addressed; the instant writ proceedings are closed with a direction to the petitioners to address a comprehensive representation enclosing a copy of the order in the case of Ramesh Chand Saini & ors. (supra).

In case, a representation is so addressed within the aforesaid period, the State-respondents are directed to consider and decide the same by a reasoned and speaking order in accordance with law within a period of three months from the date of receipt of the representation along with a certified copy of this order.

With the observations and directions, as indicated above, the writ petition stands disposed of.

Stay petition also stands disposed of.

(DINESH MEHTA),J