HIGH COURT of JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 15319/2021

Hamendra Singh Chundawat S/o Raghunath Singh, aged about 42 Years, Resident of Village Bhundwas, District Rajsamand (Rajasthan).

----Petitioner

Versus

- 1. State of Rajasthan through the Secretary, Secondary Education, Rajasthan, Jaipur (Rajasthan).
- Joint Education Secretary, Education (Group II)
 Department, Jaipur (Rajasthan).
- 3. Director, Secondary Education, Rajasthan, Bikaner (Rajasthan).
- 4. Joint Director (Training), Secondary Education, Rajasthan, Bikaner (Rajasthan).
- 5. District Education officer, Office of District Education Officer Secondary (Headquarter), Rajsamand (Rajasthan).
- 6. District Education officer, Office of District Education Officer Secondary (Headquarter), Karauli (Rajasthan).

----Respondents

For Petitioner(s) : Mr. Indrajeet Yadav.

Mr. O.P. Sangwa.

Mr. Bherulal Jat.

Mr. Abhijeet Sharma.

Mr. Rajendra Singh Rathore.

Mr. Kailash Jangid.

Mr. Mohan Singh Shekhawat.

Mr. Rajendra Singh Bhati.

Mr. Chandraveer Singh Shekhawat.

For Respondent(s) : Mr. Hemant Choudhary, G.C.

Mr. Vishal Jangid, Dy. Govt. Counsel.

HON'BLE MR. JUSTICE ARUN BHANSALI <u>Order</u>

02/12/2021

The present bunch of writ petitions enlisted in the appended Schedule, which shall be treated to be part and parcel of the order instant, are decided by a common order.

These writ petitions have been filed by the petitioners aggrieved against the order dated 12.10.2021 passed by the respondents pursuant to the directions given by this Court in various writ petitions led by Sangeeta Patidar vs. The State of Rajsthan & Ors. : S.B.C.W.P. No.7730/2021 decided on 10.08.2021.

The petitioners, aggrieved by allotment of the districts pursuant to reshuffling by the respondents, approached this Court by filing various writ petitions led by Sangeeta Patidar (*supra*). A Coordinate Bench of this Court after hearing the parties and on their request, *inter-alia*, passed the following orders: -

- "1. The present bunch of writ petitions enlisted in the appended Schedule, which shall be treated to be part and parcel of the order instant, are decided by a common order.
- 2. These writ petitions have been preferred by the petitioners, interalia, laying challenge to the order of the allotment of District to the petitioners.
- 3. Learned counsel for the petitioners submit that the issue involved in the present writ petitions is squarely covered by the judgment of this Court dated 16.10.2020, passed by Jaipur Bench of this Court in bunch of writ petitions led by Reena Vs. State of Raj. & Ors.(S.B. Civil Writ Petition No.7617/2020).
- 4. Mr. Jangid, learned counsel for the respondents does not dispute the aforesaid position of facts and law.
- 5. The Jaipur Bench in its judgment in the case of Reena (supra) has held thus:

"Keeping in view that the same principle would be applied to the present selections, this Court is satisfied that the directions issued by the Coordinate Bench, at Principal Seat, Jodhpur, as quoted in Para 35 of the

judgment (supra), would have full application to all the candidates, who have appeared in the selection process and have been selected as Teacher Grade-II. This Court also notices that the case of the petitioners is identical to the case of those petitioners, who were before the Court in the case of Nirmal Jat (supra)."

- 6. Accordingly these writ petitions are allowed.
- 7. The petitioners shall be free to make a detailed representation to the concerned authority in terms of the circular dated 25.09.2020, 30.09.2020 (if any) and any other circular if prevailing presently. The representation be filed on or before 31.10.2021.
- 8. Till the petitioners' representations are decided as directed hereby, interim order passed in the writ petitions shall continue.
- 9. All pending applications stand disposed of accordingly."

Pursuant to the order dated 10.08.2021 passed by the Coordinate Bench, the respondents issued a communication dated 12.10.2021 (Annex.7 to S.B.C.W.P. No.14988/2021) referring to order passed by the Court and directed as under:

"अतः निर्देशित किया जाता है कि माननीय न्यायालय द्वारा पारित निर्णयों के क्रम में आपके कार्यालय स्तर से निम्नलिखित कार्यवाही किया जाना सुनिश्चित करावें :--

- 1. शारीरिक प्रशिक्षण अनुदेशक ग्रेड III भर्ती 2018 में रिशफल जिला आवंटन के सम्बन्ध में कार्यालय हाजा के पत्रांक शिविरा/माध्य/संस्था/एफ-1/12102/शा.शि.ग्रेड-III/सी. भ.-2018/एन. जे./2021 दिनांक 11.06.2021 द्वारा प्रदत्त दिशा-निर्देशों के अनुसार आपके जिले में शारीरिक प्रशिक्षण अनुदेशक ग्रेड III के रिक्त पदों को दिनांक 14.10. 2021 तक विभागीय वेबसाईट पर प्रदर्शित करें।
- 2. बिन्दु संख्या 01 में प्रदत्त निर्देशों के क्रम में प्रदर्शित रिक्त पदों में से किसी पर पदस्थापन चाहने वाले याचिकार्थियों द्वारा दिनांक 31.10.2020 तक आपके कार्यालय में प्रस्तुत समस्त अभ्यावेदनों को निम्नानुसार निस्तारित किया जावे:—

- रिशफल जिला आवंटन के तहत नवीन आवंटित जिले में ही (अन्तः जिला) पदस्थापन स्थान में परिर्वतन चाहने वाले याचिकार्थियों के अभ्यावेदनों को रिशफल जिला आवंटन के सम्बन्ध में कार्यालय हाजा के पत्रांक शिविरा/माध्य/संस्था/एफ-1/12102/शा.शि. ग्रेड-गा/सी. भ.-2018/एन.जे./2021 दिनांक 11.06.2021 द्वारा प्रदत्त दिशा-निर्देशों के आधार पर पदस्थापन हेतु अभ्यथियों के वरीयता कम का निर्धारण कर उक्त वरीयतानुसार अभ्यावेदन का निस्तारण करे।
- शारीरिक प्रशिक्षण अनुदेशक ग्रेड III भर्ती 2018 में रिशफल जिला आवंटन के तहत नवीन आवंटित जिले की वेबसाईट पर प्रदर्शित रिक्त पद के स्थान पर पूर्व आवंटित/अन्य जिले में पदस्थापन चाहने वाले अभ्यथ्यों के अभ्यावेदनों को अस्वीकार करते हुए निस्तारित करे।
- 3. समस्त अभ्यावेदनों को दिनांक 10.11.2021 तक निस्तारित करके माननीय न्यायालय द्वारा विभिन्न याचिकाओं में पूर्व में पारित अंतरिम आदेश की पालना में पूर्व आवंटित जिले से कार्यमुक्त नहीं होने वाले कार्मिकों को दिनांक 12.11.2021 तक कार्यमुक्त कर नवीन आवंटित जिले में कार्यग्रहण करवाया जाना सुनिश्चित करावे।"

The petitioners are aggrieved of the second part of Point No.2, wherein it has been indicated that P.T.I. Grade-III, who have applied for previously allotted/other districts other than the reshuffled districts allotted to them, their representations be rejected.

It is submitted by the learned counsel for the petitioners that the action of the respondents in confining the choice of petitioners for allotment of districts pursuant to order passed by this Court in the case of Sangeeta Patidar (*supra*) to the allotted district is wholly incorrect; the respondents should have permitted the petitioners to opt for any of the districts throughout the State and as such, the action being contrary to the directions given by this Court, the offending portion of the communication dated 12.10.2021 deserves to be struck down.

Counsel for the petitioners, in the alternative, made submissions that as the last date given in the case of Sangeeta Patidar for making representation was 31.10.2021 and the respondents had issued the communication dated 12.10.2021 and petitioners were aggrieved of the stipulation made therein, some of them could not make the representations by 31.10.2021 as per communication dated 12.10.2021 and, therefore, they may be granted one more opportunity to make representation in consonance with communication dated 12.10.2021.

E-converso, learned counsel for the State submitted that the order dated 12.10.2021 is in consonance with the directions given by this Court in the case of Sangeeta Patidar (supra), inasmuch as the said case was decided directing the respondents to follow the judgment in the case of Nirmla Jat vs. State of Rajasthan & Ors.: S.B.C.W.P. No.5753/2020 decided on 14.09.2020. Once the direction was to follow the directions issued in the case of Nirmla Jat (supra), the communication dated 12.10.2021 issued is in consonance with the directions contained therein, except for change from division to district, inasmuch as cadre in the case of Teacher Grade-II, which was the subject matter in the case of Nirmla Jat (supra) was Division Wise, the cadre in the case of P.T.I. Grade-III is District Wise and as such, the plea sought to be raised by the petitioners being wholly baseless, the writ petitions deserves to be dismissed.

Counsel for the respondents in peculiar circumstances of the case do not object to the alternative prayer and submits that representations, if any, should be filed within a period of ten days.

I have considered the submissions made by the counsel for the parties and have perused the material available on record. A perusal of the order passed in the case of Sangeeta Patidar (*supra*) would reveal that said petitions were decided while referring to order passed in Reena vs. State of Rajasthan & Ors.: S.B.C.W.P. No.7617/2020 decided on 16.10.2020 at Jaipur Bench. The Bench at Jaipur in the case of Reena (*supra*) referred to paragraph 35 of the judgment in the case of Nirmla Jat (*supra*) and directed the respondents to follow the same directions. This Court in the case of Nirmla Jat (*supra*) had, inter alia, directed as under: -

- "34. There is yet another reason, for which this Court does not deem it appropriate to direct the respondents to undertake the exercise afresh. Seniority of the teachers is reckoned Division Wise. Now all the teachers have been allotted the division according to their merit cum preference. When it comes to posting, it has to be noted that they are subject to intra division transfers, hence, posting at a particular place cannot be claimed as a matter of right. Posting is only a matter of convenience, which can be addressed/redressed at a later point of time.
- 35. Hence, considering the submission of the State, as noticed in para No. 21 above and in view of the common consensus and alternative oral submission of all the learned counsel for the respective petitioners, this Court deems it appropriate and in the interest of all the concerned, particularly the candidates (who are not before this Court) to dispose of all the writ petitions with following directions:-
- (i) The State shall publish latest subject-wise and category-wise vacant position of each division on its website, within a period of 15 days from today.
- (ii) All the petitioners herein may submit representations to the Director, giving choice(s) qua

the vacant positions [out of their division(s)], so published by the State. Representation(s) be furnished within a period of four weeks from publication of such list.

- (iii) The petitioners shall also be permitted to request for mutual transfer within their division.
- (iv) The Director/Joint Director shall decide petitioners' representations within a period of four weeks thereafter, while trying to accommodate the petitioners in accordance with the preference given by them, of course, if the relevant law/guidelines so permit.
- (v) In case, petitioners' representations are rejected, the respondents shall pass a reasoned order under intimation to the concerned.
- (vi) The petitioners will be free to take up their remedies against such orders, in accordance with law."

It may be noticed here that the Bench in the case of Nirmla Jat (*supra*) observed that seniority of the Teachers is reckoned Division Wise, which in the case of P.T.I. Grade-III, which is subject matter of the present writ petitions, is reckoned District Wise. If the directions given in the case of Nirmla Jat (*supra*) are read *mutatis mutandis* qua the present case, instead of 'Division', 'District' will have to be read and consequently, the directions as given in the case of Nirmla Jat (*supra*) would *inter alia* read as under: -

- (i) The State shall publish latest subject-wise and category-wise vacant position of each <u>District</u> on its website, within a period of 15 days from today.
- (ii) All the petitioners herein may submit representations to the Director, giving choice(s) qua the vacant positions [out of their district(s)], so published by the State. Representation(s) be

furnished within a period of four weeks from publication of such list.

(iii) The petitioners shall also be permitted to request for mutual transfer within their district.

The respondents in the communication dated 12.10.2021, as quoted herein before, have required that in case of Intra-District transfer within newly allotted districts, if representation has been made, the same may be disposed of as per the merit of the candidate(s) and qua the representations seeking Inter-District Transfers, it was directed that the same be dismissed.

The communication dated 12.10.2021 is in consonance with the directions given in the case of Nirmla Jat (*supra*), when the same is read in context of the district, wherein the Court has specifically indicated that the petitioners may submit representation giving choice of any vacant position (out of their district) so published by the State.

Once in the case of Nirmla Jat (*supra*), the choice was restricted to Division, wherein the cadre was Division Wise, the stipulation made in the communication dated 12.10.2021 restricting the choice within the district, in the present case, where the cadre is District Wise, the same cannot be faulted on any count.

In view of above fact situation, no case for interference in the order dated 12.10.2021 is made out. The petitions have no substance, they are therefore, dismissed.

In case the representations made by the petitioners are still pending, the same may be decided expeditiously by the

respondents, preferably within a period of three weeks in accordance with communication dated 12.10.2021.

The petitioners, who have not made any representation in consonance with communication dated 12.10.2021, they may make representation within a period of ten days from today i.e. by 13.12.2021 and the respondents are directed to pass appropriate orders thereon by 24.12.2021.

(ARUN BHANSALI),J

27, 108 to 214 & 216 to 219-DJ/-



Schedule

S.No.	Item No.	WRIT PETITION No(s).	PARTY NAME	
1.	108	SBCWP No.14831/2021	Surendra Pal Singh Sandhu	State of Raj. & Ors.
2.	109	SBCWP No.14835/2021	Jagdish Chandra	State of Raj. & Ors.
3.	110	SBCWP No.14861/2021	Gursahab Singh	State of Raj. & Ors.
4.	111	SBCWP No.14905/2021	Maya Devi	State of Raj. & Ors.
5.	112	SBCWP No.14945/2021	Vinod Kumar Suman	State of Raj. & Ors.
6.	113	SBCWP No.14963/2021	Ashok Kumar Kumawat	State of Raj. & Ors.
7.	114	SBCWP No.14964/2021	Meena Suman	State of Raj. & Ors.
8.	115	SBCWP No.14965/2021	Kailash Chand Bheel	State of Raj. & Ors.
9.	116	SBCWP No.14971/2021	Vinay Kulhari	State of Raj. & Ors.
10.	117	SBCWP No.14974/2021	Ram Ratan	State of Raj. & Ors.
11.	118	SBCWP No.14978/2021	Aman Deep Yadav	State of Raj. & Ors.
12.	119	SBCWP No.14982/2021	Sunil Chiraniya	State of Raj. & Ors.
13.	120	SBCWP No.14986/2021	Krishan Kumar Choudhary	State of Raj. & Ors.
14.	121	SBCWP No.14987/2021	Dara Singh	State of Raj. & Ors.
15.	122	SBCWP No.14988/2021	Rakesh Kumar	State of Raj. & Ors.
16.	123	SBCWP No.14990/2021	Sushila Kumari	State of Raj. & Ors.
17.	124	SBCWP No.15029/2021	Raju Dhobi	State of Raj. & Ors.
18.	125	SBCWP No.15051/2021	Jagdish Jat	State of Raj. & Ors.
19.	126	SBCWP No.15055/2021	Vinod Kumar	State of Raj. & Ors.
20.	127	SBCWP No.15058/2021	Neetu Vaid	State of Raj. & Ors.
21.	128	SBCWP No.15074/2021	Pushpa Choudhary	State of Raj. & Ors.
22.	129	SBCWP No.15078/2021	Dharampal Barala	State of Raj. & Ors.
23.	130	SBCWP No.15086/2021	Bhagirath Suthar	State of Raj. & Ors.
24.	131	SBCWP No.15092/2021	Sanju Devi	State of Raj. & Ors.
25.	132	SBCWP No.15094/2021	Sushila Saini	State of Raj. & Ors.
26.	133	SBCWP No.15096/2021	Mukesh Meena	State of Raj. & Ors.
27.	134	SBCWP No.15097/2021	Saroj	State of Raj.

				& Ors.
28.	135	SBCWP No.15103/2021	Manisha Kannojiya	State of Raj. & Ors.
29.	136	SBCWP No.15108/2021	Pranjal Rawal	State of Raj. & Ors.
30.	137	SBCWP No.15110/2021	Vinod Kumar Lochib	State of Raj. & Ors.
31.	138	SBCWP No.15111/2021	Pokar Ram	State of Raj. & Ors.
32.	139	SBCWP No.15112/2021	Shankar Lal Bana	State of Raj. & Ors.
33.	140	SBCWP No.15114/2021	Rajesh Swami	State of Raj. & Ors.
34.	141	SBCWP No.15140/2021	Girdhari Singh	State of Raj. & Ors.
35.	142	SBCWP No.15151/2021	Nandu Jat	State of Raj. & Ors.
36.	143	SBCWP No.15154/2021	Madan Lal	State of Raj. & Ors.
37.	144	SBCWP No.15159/2021	Virendra Meena	State of Raj. & Ors.
38.	145	SBCWP No.15176/2021	Dinesh	State of Raj. & Ors.
39.	146	SBCWP No.15178/2021	Hemraj Gurjar	State of Raj. & Ors.
40.	147	SBCWP No.15180/2021	Bacchu Singh Gurjar	State of Raj. & Ors.
41.	148	SBCWP No.15187/2021	Sarita Khedar	State of Raj. & Ors.
42.	149	SBCWP No.15192/2021	Vinita Choudhary	State of Raj. & Ors.
43.	150	SBCWP No.15218/2021	Vinod Kumar Sujawat	State of Raj. & Ors.
44.	151	SBCWP No.15221/2021	Pushpa Kumari Gadri	State of Raj. & Ors.
45.	152	SBCWP No.15223/2021	Shanker Lal Saini	State of Raj. & Ors.
46.	153	SBCWP No.15225/2021	Ramesh Chandra Gurjar	State of Raj. & Ors.
47.	154	SBCWP No.15226/2021	Durga Devi	State of Raj. & Ors.
48.	155	SBCWP No.15237/2021	Jagmohan Singh Gurjar	State of Raj. & Ors.
49.	156	SBCWP No.15252/2021	Chetan Rathore	State of Raj. & Ors.
50.	157	SBCWP No.15255/2021	Omprakash	State of Raj. & Ors.
51.	158	SBCWP No.15258/2021	Mukesh Kumar Jat	State of Raj. & Ors.
52.	159	SBCWP No.15259/2021	Kalpana Gurjar	State of Raj. & Ors.
53.	160	SBCWP No.15306/2021	Devi Singh Adha	State of Raj. & Ors.
54.	161	SBCWP No.15307/2021	Dinesh Kumar Jat	State of Raj. & Ors.
55.	162	SBCWP No.15344/2021	Lokesh Kumar	State of Raj. & Ors.
56.	163	SBCWP No.15347/2021	Nehpal Singh	State of Raj.

				& Ors.
57.	164	SBCWP No.15348/2021	Shankar Lal Menaria	State of Raj. & Ors.
58.	165	SBCWP No.15353/2021	Magha Ram	State of Raj. & Ors.
59.	166	SBCWP No.15360/2021	Mukesh Kumar Ahari	State of Raj. & Ors
60.	167	SBCWP No.15369/2021	Urmila Yadav	State of Raj. & Ors
61.	168	SBCWP No.15388/2021	Amrit Singh Parihar	State of Raj. & Ors
62.	169	SBCWP No.15390/2021	Ganesh	State of Raj. & Ors
63.	170	SBCWP No.15395/2021	Ajeet Godara	State of Raj. & Ors
64.	171	SBCWP No.15396/2021	Daleep Kumar	State of Raj. & Ors
65.	172	SBCWP No.15398/2021	Kamlendra Kumawat	State of Raj. & Ors
66.	173	SBCWP No.15408/2021	Yadavinder	State of Raj. & Ors
67.	174	SBCWP No.15409/2021	Eakbal Singh	State of Raj. & Ors
68.	175	SBCWP No.15411/2021	Sanju Kumari Khati	State of Raj. & Ors
69.	176	SBCWP No.15412/2021	Subodh Chaturvedi	State of Raj. & Ors
70.	177	SBCWP No.15414/2021	Ankit Jat	State of Raj. & Ors
71.	178	SBCWP No.15415/2021	Parvati	State of Raj. & Ors
72.	179	SBCWP No.15428/2021	Oma Ram	State of Raj. & Ors
73.	180	SBCWP No.15453/2021	Gambhir Singh Bhati	State of Raj. & Ors
74.	181	SBCWP No.15487/2021	Neelu Charan	State of Raj. & Ors
75.	182	SBCWP No.15542/2021	Ved Prakash	State of Raj. & Ors
76.	183	SBCWP No.15543/2021	Prahlad Bairagi	State of Raj. & Ors
77.	184	SBCWP No.15544/2021	Manpreet Singh	State of Raj. & Ors
78.	185	SBCWP No.15614/2021	Sangeeta Parihar	State of Raj. & Ors
79.	186	SBCWP No.15632/2021	Gaytri Vyas	State of Raj. & Ors
80.	187	SBCWP No.15639/2021	Arun Kumar Gusar	State of Raj. & Ors
81.	188	SBCWP No.15665/2021	Deepak Kumar	State of Raj. & Ors
82.	189	SBCWP No.15677/2021	Anita Kumari Damor	State of Raj. & Ors
83.	190	SBCWP No.15697/2021	Jagdeesh Meena	State of Raj. & Ors
84.	191	SBCWP No.15701/2021	Pinky Rani Jaat	State of Raj. & Ors
85.	192	SBCWP No.15703/2021	Sheela Meena	State of Raj.

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0.6	100	CDC/MD N	T 1:1 A1	& Ors
86.	193	SBCWP No.15704/2021	Tophik Alam Kayamkhani	State of Raj. & Ors
87.	194	SBCWP No.15705/2021	Shankar Chanderiya	State of Raj. & Ors
88.	195	SBCWP No.15706/2021	Santosh Gocher	State of Raj. & Ors
89.	196	SBCWP No.15707/2021	Sampat Ram	State of Raj. & Ors
90.	197	SBCWP No.15708/2021	Gajanand Palsania	State of Raj. & Ors
91.	198	SBCWP No.15712/2021	Baoo	State of Raj. & Ors
92.	199	SBCWP No.15713/2021	Naresh Yadav	State of Raj. & Ors
93.	200	SBCWP No.15736/2021	Rajesh Neniwal	State of Raj. & Ors
94.	201	SBCWP No.15738/2021	Ashok Kumar Dabi	State of Raj. & Ors
95.	202	SBCWP No.15769/2021	Vishawdeep Singh Sekhon	State of Raj. & Ors
96.	203	SBCWP No.15833/2021	Shilpa Sowara	State of Raj. & Ors
97.	204	SBCWP No.15837/2021	Bhupendra Kumar	State of Raj. & Ors
98.	205	SBCWP No.15842/2021	Anil Kumar	State of Raj. & Ors
99.	206	SBCWP No.15922/2021	Rajkumar Fogawat	State of Raj. & Ors
100.	207	SBCWP No.15933/2021	Surendra Kumar Kanjar	State of Raj. & Ors
101.	208	SBCWP No.15942/2021	Vikram Palsaniya	State of Raj. & Ors
102.	209	SBCWP No.15948/2021	Bhagya Singh Gurjar	State of Raj. & Ors
103.	210	SBCWP No.15997/2021	Mahaveer Prasad Verma	State of Raj. & Ors
104.	211	SBCWP No.16070/2021	Rajeshwar Singh Rajawat	State of Raj. & Ors
105.	212	SBCWP No.16226/2021	Ravindra Kumar	State of Raj. & Ors
106.	213	SBCWP No.16316/2021	Soniya Burdak	State of Raj. & Ors
107.	214	SBCWP No.16340/2021	Turna	State of Raj. & Ors
108.	216	SBCWP No.15800/2021	Saroj Meena	State of Raj. & Ors
109.	217	SBCWP No.15802/2021	Rekha Kumari	State of Raj. & Ors
110.	218	SBCWP No.15828/2021	Anita Faleja	State of Raj. & Ors
111.	219	SBCWP No.15838/2021	Usha Kumari Katara	State of Raj. & Ors