
(2019) 01 RAJ CK 0002

In the Rajasthan High Court

Case No : Civil Writ No. 3371, 3411, 3434, 3435, 3436, 3437, 3439, 3440, 3441, 3442, 3444, 3445, 3450, 3451, 3452, 3696, 3705, 3716, 4384 Of 2018

Gayatri Ojha

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 02-01-2019

Acts Referred:

Rajasthan Panchayati Raj (Transferred Activities), Rules 2011 — Rule 8

Citation : (2019) 01 RAJ CK 0002

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Y.P. Khileree, Mahaveer Bishnoi, Rameshwar Dave, J.S. Bhalasria, Sweta Bora, Anil Bissa, Manish Patel

Final Decision : Allowed

Judgement

These writ petitions have been filed by the petitioners aggrieved against the order dated 27.02.2018 passed by the Additional Director (Administration), Medical & Health Services, Rajasthan, Jaipur, whereby the petitioners have been posted at Medical College, Pali from various Primary Health Centres / Community Health Centres (PHCs/CHCs) situated at District Jalore.

Learned counsel for the petitioners made submissions that the issue involved in the present writ petitions is squarely covered by the judgment of this Court in *Samleta v. State of Rajasthan & Ors.* : SBCWP No.11862/2017, decided on 14.11.2017, wherein this court after referring to Rule 8 of the Rajasthan Panchayati Raj (Transferred Activities), Rules 2011 ('the Rules of 2011'), on coming to the conclusion that in terms of the said Rule, consent of the Panchayati Raj Department was not taken before affecting the transfer / posting of the petitioners therein, quashed the order and that the said judgment has been upheld by the Division Bench in *State of Rajasthan & Ors. v. Samleta* : DBSAW No.736/2018, decided on 11.10.2018.

Learned counsel for the petitioners also made submissions that ever since interim order was granted by this Court in March, 2018, the petitioners have not been paid salary by the respondents.

Learned counsel for the respondents attempted to make submissions that as the initial posting was accorded to the petitioners at Medical College, Jodhpur and thereafter, they were posted at various PHCs/CHCs in District Jalore, they cannot now question their posting at the Medical College, Pali and that there is no necessity of seeking consent of the Panchayati Raj Department under the Rules of 2011.

Learned counsel appearing for the Panchayati Raj Department make submissions that he has been instructed by the department, not to appear in the matters despite the fact that the department has been impleaded as party respondent to the present writ petition and in fact, appearance has been put by him, for the reasons best known to the department and not made known to the counsel.

Having considered the submissions made by learned counsel for the parties and the fact that identical petition being *Omprakash v. State of Rajasthan & Ors.* : SBCWP No.3244/2018, decided on 06.03.2018 relying on the judgment in the case of *Samleta* (supra) has been allowed, which order has not been questioned by the respondent - Medical & Health Department in any manner, there is no reason to take a different view from what has been taken in the case of *Omprakash* (supra).

So far as the submissions regarding the fact that initially the petitioners were granted posting at Medical College, Jodhpur is concerned, the said aspect loses its significance once they were accorded posting at PHCs/CHCs and the order impugned has now been passed seeking to post them at Medical College, Pali without seeking the requisite consent of the Panchayati Raj Department as envisaged by the Rules of 2011.

In view of the above discussion, the writ petitions filed by the petitioners are allowed. The order dated 27.02.2018 qua the petitioners is quashed and set-aside.

In case, the salary of the petitioners is outstanding, the same shall be paid to them within a period of two weeks from the date a copy of the order is placed before the respondents.