

IN THE HIGH COURT OF JUDICATURE FOR  
RAJASTHAN  
BENCH AT JAIPUR.

O R D E R

- 1) S.B. CIVIL WRIT PETITION NO. 16963/2010.  
Manju Kumari Vs. State of Raj. & Ors.
- 2) S.B. CIVIL WRIT PETITION NO. 5094/2011.  
Jagdish Prasad Vs. State of Raj. & Anr.
- 3) S.B. CIVIL WRIT PETITION NO. 6053/2011.  
Anil Kumar Vs. State of Raj. & Anr.
- 4) S.B. CIVIL WRIT PETITION NO. 16431/2010.  
Jitendra Kumar Vs. RPSC Ajmer
- 5) S.B. CIVIL WRIT PETITION NO. 16413/2010.  
Ansueya Sharma Vs. State of Raj. & Anr.
- 6) S.B. CIVIL WRIT PETITION NO. 16426/2010.  
Neeraj Mudgal & Ors. Vs. The Secretary RPSC Ajmer
- 7) S.B. CIVIL WRIT PETITION NO. 16643/2010.  
Meena Sharma Vs. RPSC Ajmer
- 8) S.B. CIVIL WRIT PETITION NO. 16718/2010.  
Ritu Choudhary Vs. State of Raj. & Anr.
- 9) S.B. CIVIL WRIT PETITION NO. 16728/2010.  
Mrs. Pratibha Tripathi Vs. State of Raj. & Anr.
- 10) S.B. CIVIL WRIT PETITION NO. 16738/2010.  
Rajni Vs. State of Raj. & Anr.
- 11) S.B. CIVIL WRIT PETITION NO. 16835/2010.  
Suneeta Meena Vs. State of Raj. & Anr.
- 12) S.B. CIVIL WRIT PETITION NO. 16839/2010.  
Suman Kumari Meena Vs. State of Raj. & Anr.

- 13) S.B. CIVIL WRIT PETITION NO. 16876/2010.  
Ramvaran Vs. State of Raj. & Anr.
- 14) S.B. CIVIL WRIT PETITION NO. 16895/2010.  
Smt. Seema Vyas Vs. RPSC Ajmer & Anr.
- 15) S.B. CIVIL WRIT PETITION NO. 16897/2010.  
Lad Dhobi Vs. State of Raj. & Anr.
- 16) S.B. CIVIL WRIT PETITION NO. 16905/2010.  
Krishan Kumar Sharma Vs. State of Raj. & Anr.
- 17) S.B. CIVIL WRIT PETITION NO. 16906/2010.  
Sneh Lata Vs. RPSC Ajmer & Ors.
- 18) S.B. CIVIL WRIT PETITION NO. 16952/2010.  
Raj Kumari & Anr. Vs. State of Raj. & Anr.
- 19) S.B. CIVIL WRIT PETITION NO. 16958/2010.  
Anita Bunkar Vs. RPSC Ajmer & Anr.
- 20) S.B. CIVIL WRIT PETITION NO. 16962/2010.  
Jitendra Kumar Vs. RPSC Ajmer & Anr.
- 21) S.B. CIVIL WRIT PETITION NO. 16979/2010.  
Lilawati Swami Vs. State of Raj. & Anr.
- 22) S.B. CIVIL WRIT PETITION NO. 16983/2010.  
Ram Dayal Nagar Vs. State of Raj. & Anr.

Date of Order: -

May 31, 2011.

**HON' BLE MR. JUSTICE MOHAMMAD RAFIQ**

Shri Kuldeep Aswal ,  
Shri Mahendra Sharma,  
Shri Jitendra Pandey,  
Shri Kailash Chandra Sharma,  
Shri Ram Pratap Saini ,  
Shri Sanjay Sharma,  
Shri Banwari Sharma,

Shri Anoop Dhand,  
Shri P. N. Jatti ,  
Shri Anil Upman,  
Shri P. S. Si rohi ,  
Shri Prakash Kaushi k,  
Shri Subhash Sharma,  
Shri D. P. Sharma,  
Shri Kailash Choudhary,  
Shri Ratan Kaushi k,  
Shri Hem Singh Rathore,  
Shri Deen Dayal Sharma and  
Shri Gaurav Choudhary for the peti tioners.  
Shri S. N. Kumawat, Addi tional Advocate General .

**BY THE COURT: -**

1) In all these matters, argument of the petitioners is that advertisement dated 8/8/2008 was by the issued by the Rajasthan Public Service Commission (for short, "RPSC") inviting applications for appointment on the post of Teacher Gr.II and final selections were to be based on the written examinations however a corrigendum was issued by the RPSC on 4/8/2010 followed by another corrigendum dated 3/9/2010 requiring candidates to indicate Code No.41 for subject of Mathematics and Code No.42 for the subject of Science in the OMR application form. Similar code numbers 42 to 50 for other subjects were to be also indicated in the OMR application form.

2) Contention of the learned counsel for the petitioners is that initially when the advertisement was issued by the RPSC on 8/8/2008, the qualification for those subjects were indicated at Sr.Nos.41 to 50 with reference to subjects Column No.1 and Column No.6. Subsequently, however, the corrigendum was issued by the RPSC on 4/8/2010 because rules regarding educational qualification were amended vide Notification No.F2(6) DOP / A-II/84 6.4.2010 w.e.f. 16.7.2008. This change in the qualification for the post mentioned at Sr.Nos.43 to 49 and also for the posts of the subject mentioned at Sr.Nos.42 and 50 were separately indicated therein. By the said corrigendum, the RPSC provided information to all the candidates that while filling in OMR sheets for the post indicated in Column-11, candidates should also fill the post Code Number, which was the same as the serial number indicated in the original notification. Another corrigendum was issued by the RPSC on 3/9/2010, which became necessary because number of advertised posts underwent an increase therefore the corrigendum was issued, although the same post code numbers were indicated therein. It is argued that most of the petitioners come from rural areas and though they noticed first notification dated 8/8/2008 and

accordingly applied but the notification dated 4/8/2010 and subsequent notification dated 3/9/2010 were not noticed. With the result that RPSC did not permit them to appear in the written examination although they were eligible for appearing in such written examination as per qualification held by them. They approached this Court and appeared in that examination pursuant to the interim-orders passed by this Court. Process of selection has so far not been finalised. They may be allowed to retain the benefit of examination attempted by them. Learned counsel relied on the judgments of the co-ordinate bench of this Court in **Vishnu Kumar Sharma Vs. Rajasthan Public Service Commission & Anr. : S.B. Civil Writ Petition No.4815/2010** decided on 7/2/2011 and **Deendayal Sunariwal & 48 others Vs. State of Rajasthan & Ors. : 2010 WLC (Raj.) UC 596** in which this Court in similar situation directed the RPSC to declare result of the candidates, who appeared under the orders of the court and in those cases too, the dispute was that petitioners did not fill in correct post code number.

3) Per contra, Shri S.N. Kumawat, Learned Additional Advocate General argued that the post code numbers were duly notified even in the first advertisement dated 8/8/2008 and subsequent

notification dated 4/8/2010. It has also been reiterated by the said notifications informing the candidates to indicate the post code in Column-11 of the OMR sheets. Subsequent notification dated 3/9/2010 also reiterated the same post code numbers, which was issued primarily because number of posts underwent an increase. Petitioners, who committed mistake in not filling up the correct OMR application form, have to blame themselves. It is argued that if no post code number has been filled in the OMR application form or incorrect post code number has been filled in for which post the petitioners are not eligible, in that event, they cannot be permitted to appear in the examination. Learned counsel has cited the judgment of co-ordinate Bench of this Court in **Bhag Chand Verma & Ors. Vs. Rajasthan Public Service Commission : S.B. Civil Writ Petition No.15289/2010 & 20 Ors.** decided on 10/5/2011 to argue that a contrary view has been expressed by the court in that judgment and it has been held that if the candidate has not indicated correct post code number, they would not be entitled to be considered for appointment for such post and in fact what was held that they cannot be allowed to participate in the selection. Same view has been expressed by the co-ordinate bench in **Vi shnu**

Kumar Sharma supra. Learned counsel has also cited the judgment of Supreme Court in T. Jayakumar Vs. A. Gopu and Another : (2008) 9 SCC 403 in which case application form of the candidate was rejected because it was not bearing his signature. It was held that if application forms are not bearing applicant's signature and / or received after closing date, decision of the authority concerned rejecting such application was just and reasonable and no interference was made. Learned counsel therefore prayed that these writ petitions be dismissed.

4) Upon hearing learned counsel for the parties and perusing the record, I find that petitioners herein are aggrieved by the fact that respondent-RPSC while issuing the advertisement in the first instance vide notification dated 8/8/2008, though specified that candidates should indicate their post code number in Column No. 11 of OMR application form. But the petitioners were misled by the first corrigendum that was published by the RPSC giving information to the candidates is concerned that they are required to indicate post code numbers 41 to 50 with reference to subject corresponding to their qualification, which was published almost two years thereafter on 4/8/2010. Contention that since the post code numbers, which are

subsequently indicated in corrigendum dated 4/8/2010 are the same and corresponding to the same numbers, which are at serial numbers of the subject indicated in the first notification dated 8/8/2008, cannot be a reason to reject argument of the petitioners that they were misled by the act of the RPSC. This makes the case cited by the Learned Additional Advocate General in **Bhag Chand Verma** supra and Supreme Court judgment in **T. Jayakumar** supra distinguishable on facts.

5) Moreover, in **Bhag Chand Verma** supra, the selection was held for two posts of PTI Gr.II and PTI Gr.III with post Code Nos. 35 and 36, respectively. Option was available to candidates to either apply for both the posts or apply against any one of the posts. Thus the candidates had the option to simultaneously apply for both the posts but some of the candidates deliberately did not opt to apply for the post of PTI Gr.III and they only applied for PTI Gr.II. Separate application was required to be made for the posts of PTI Gr.II and PTI Gr.III for which separate qualification and eligibility criteria was prescribed in the rules. RPSC accordingly did not consider their candidature for appointment on the post of PTI Gr.III. Subsequently those candidates could not secure appointments on the basis of their merit on the post of PTI Gr.II, they



approached the RPSC and the Government to consider their candidature against the posts of PTI Gr.III. In those facts, Government thereupon issued a direction to the RPSC to consider their case for appointment on the post of PTI Gr.III. At that stage, petitioners approached this Court. This Court vide interim-order dated 12/1/2011 restrained the RPSC from recommending their names to the Government for appointment on the post of PTI Gr.III. It is thus obvious that their names were not forwarded for appointment by RPSC on its own and it did so at the instance of the Government and they did not apply for the post of PTI Gr.III for which a separate qualification was prescribed and a separate OMR application form was required to be filled in with different subject post code number. In those facts, this Court held action of the Government and the RPSC illegal and directed that consideration for appointment on the post of PTI Gr.III be confined only to those, who have applied for those posts. Such are not the facts in the present case.

6) This court is also conscious of the fact that large number of candidates have approached this Court and persuaded this Court to permit them to appear in the examination of their subject. It is also not disputed that they have appeared in the examination and so far the

selection process has not been finalized.

7) It goes without saying that RPSC while recommending their cases for appointment, would also scrutinize their educational qualifications to satisfy itself about their eligibility.

8) In the circumstances, all these writ petitions deserve to be allowed and are hereby allowed. RPSC to declare result of each of the petitioner and petitioners would be entitled to benefit of result just like any other candidates in the process of selection.

(MOHAMMAD RAFIQ), J.

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