

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

**S.B.Civil Writ Petition No. 7673 / 2016**

Satish Kumar Sharma S/o Late Shri Shyam Sunder, aged about 42 years, by caste Sharma, resident of 2J/35, First Pooliya, Chaupasani Housing Board, Jodhpur, Dist. Jodhpur (Raj.).

----Petitioner

Versus

The Secretary, Rajasthan Public Service Commission through the Secretary, Ajmer (Raj.)

----Respondent

**S.B.Civil Writ Petition No. 10689 / 2016**

1. Komica Jain D/o Shri Pawan Kumar Jain, Aged 26 years, R/o Near Power House, Untra Road, Madanganj-Kishangarh, Distt.-Ajmer, presently living at 181, New BJS, Jodhpur (Raj.).

2. Amit Kaushik S/o Shri Nand Kishore Kaushik, Aged 33 years, R/o Vill. & PO-Gudlia, Via-Badhal, Distt.-Jaipur, presently living at D-47, Kamla Nehru Nagar, Jodhpur (Raj.).

----Petitioners

Versus

Rajasthan Public Service Commission through the Secretary, Ajmer (Raj.)

----Respondent

**S.B.Civil Writ Petition No. 10684 / 2016**

Anu Shree Pradhan D/o Ashok Pradhan Age 29 Years R/o B-123, Gol Market, Jawahar Nagar, Jaipur

----Petitioner

Versus

1. The State of Rajasthan through its Principal Secretary, Department of Personnel, Government Secretariat, Rajasthan, Jaipur.

2. The Rajasthan Public Service Commission through its Secretary, Ajmer.

----Respondents

**S.B.Civil Writ Petition No. 10697 / 2016**

1. Ganpat Singh son of Shri Bal Singh, aged about 28 years, resident of Village Post Fogera, Tehsil Harsani, District Barmer.

2. Mahendra Singh Rajpurohit son of Shri Bhikam Singh Rajpurohit, aged about 40 years, resident of Village Post Khinchan, Jodhpur

----Petitioners

Versus

1. Rajasthan Public Service Commission Ajmer through Secretary, RPSC Premises, Jaipur Road, Ajmer (Raj.)

2. State of Rajasthan through the Secretary, Department of Personal, Government of Rajasthan, Secretariat, Jaipur (Raj.)

----Respondents

**S.B.Civil Writ Petition No. 10862 / 2016**

Harish Kumar Meena S/o Ratan Lal Meena Age 28 years R/o Village Post Benar Via Jhotwara Tehsil Amber District Jaipur.

----Petitioner

Versus

1. The State of Rajasthan through its Principal Secretary, Department of Personnel, Government Secretariat, Rajasthan, Jaipur.

2. The Rajasthan Public Service Commission through its Secretary, Ajmer.

----Respondents

**S.B.Civil Writ Petition No. 10931 / 2016**

Arun Bissa son of Shri Durgesh Kumar Bissa, aged about 26 years, resident of C-18, Police Line, Near Mahila Police Station, Ratanada, Jodhpur.

----Petitioner

Versus

1. Rajasthan Public Service Commission Ajmer through Secretary, RPSC Premises, Jaipur Road, Ajmer (Raj.)

2. State of Rajasthan through the Secretary, Department of Personal, Government of Rajasthan, Secretariat, Jaipur(Raj.)

----Respondents

**S.B.Civil Writ Petition No. 10999 / 2016**

Anju Meena D/o Shri Om Prakash Meena, Aged 27 years, R/o House No.233, Sector-2, New Vidyadhar Nagar, Jaipur, (presently residing at C/O Shri C.K. Chandak, Adda Bazar, Tapria Street, Jodhpur(Raj.)

----Petitioner



Versus

Rajasthan Public Service Commission through the Secretary,  
Ajmer (Raj.)

-----Respondent

**S.B.Civil Writ Petition No. 11000 / 2016**

Mukesh Manat S/o Shri Prabhu Lal, Aged 26 years, R/o V & PO.-  
Rampur Sati, District-Dungarpur (Raj.)

-----Petitioner

Versus

Rajasthan Public Service Commission through the Secretary,  
Ajmer (Raj.)

-----Respondent



**S.B.Civil Writ Petition No. 11173 / 2016**

Aabha D/o Shri Daulat Ram, Aged 26 years, R/o 89-Bhondu ka  
Pura, Ward No.1, Hindon City (Presently residing at D-47 Kamla  
Nehru Nagar, Jodhpur).

-----Petitioner

Versus

Rajasthan Public Service Commission through the Secretary,  
Ajmer (Raj.)

-----Respondent

**S.B.Civil Writ Petition No. 11174 / 2016**

Jyoti Saahu W/o Shri Sher Singh Sunda, Aged 39 years, R/o 202-  
Topaz, Somdutt Landmark, Hawasadark Civil Lines, Jaipur  
(Presently residing at C/o Shri Suresh Saharan, Inside Jai Narain  
Building near Reliance Tower, Opp. Hotel Khas Bagh, Ratanada,  
Jodhpur).

-----Petitioner

Versus

Rajasthan Public Service Commission through the Secretary,  
Ajmer (Raj.)

-----Respondent

**S.B.Civil Writ Petition No. 12204 / 2016**

1. Pratibha D/o Shri Ramesh Chandra Poonia, aged 26 years,
2. Prabha D/o Shri Ramesh Chandra Poonia, aged 28 years, Both  
R/o Ward No.12, Behind Mohta College, Sardulpur, Distt. Churu  
(Raj.)

-----Petitioners

Versus

Rajasthan Public Service Commission through the Secretary,  
Ajmer (Raj.)

-----Respondent

**S.B.Civil Writ Petition No. 12205 / 2016**

Deepak Kulhar S/o Shri Vijay Kulhar, Aged 33 years, R/o B-201,  
Golden Heights, Rajendra Marg, Bapu Nagar, Jaipur (Presently  
residing at D-47, Kamla Nehru Nagar, Jodhpur).

-----Petitioner

Versus

Rajasthan Public Service Commission through the Secretary,  
Ajmer (Raj.)

-----Respondent

**S.B.Civil Writ Petition No. 12248 / 2016**

Shashi Prabha D/o Shri Attar Singh, Aged 31 years, R/o Opp.  
Govt. Hospital, Pilani Road, Sardulpur, Distt.-Churu (Raj.).

-----Petitioner

Versus

Rajasthan Public Service Commission through the Secretary,  
Ajmer (Raj.)

-----Respondent

**S.B.Civil Writ Petition No. 14126 / 2016**

Anita Lamba D/o Shri B.S. Lamba, aged 35 years, R/o Plot  
No.103, Krishna Residency, Sunder Singh Bhandari Nagar, Swez  
Farm, District Jaipur, Rajasthan

-----Petitioner

Versus

1. The State of Rajasthan through the Secretary, Department of  
Personal, Government of Rajasthan, Secretariat, Jaipur(Raj.)

2. Secretary, Rajasthan Public Service Commission Ajmer.

-----Respondent



RAJASTHAN HIGH COURT

सत्यमेव जयते

**S.B.Civil Writ Petition No. 14042 / 2016**

Neetu Arora D/o Shri Vishwa Bandhu Arora, aged about 35 years, resident of House No.230, Durga Colony, Hanumangarh Junction, Tehsil and District Hanumangarh (Raj.).

----Petitioner

Versus

1. The State of Rajasthan through the Secretary, Department of Personal, Government of Rajasthan, Secretariat, Jaipur(Raj.)

2. The Rajasthan Public Service Commission Ajmer through Secretary, RPSC Premises, Jaipur Road, Ajmer (Raj.)

----Respondents



**S.B.Civil Writ Petition No. 14152 / 2016**

Mahendra Kumar S/o of Shri Narayan Lal, aged about 28 years, by caste Gurjar, resident of Village Malpuriya Kallan, Post Surayata, Tehsil Sojat City, District Pali (Raj.).

----Petitioner

Versus

1. The State of Rajasthan through the Secretary, Department of Personal, Government of Rajasthan, Secretariat, Jaipur(Raj.)

2. The Rajasthan Public Service Commission Ajmer through Secretary, RPSC Premises, Jaipur Road, Ajmer (Raj.)

----Respondents

---

For Petitioner(s) : Mr. K.K. Shah, Mr. B.L. Swami, Mr. Shree Kant Verma, Mr. VLS Rajpurohit, Mr. Kuldeep Mathur, Mr. Kailash Jangid, Mr. Himmat Jagga

For Respondent(s) : Mr. J.P. Joshi, Sr. Adv. With Mr. Tarun Joshi and Mr. Khet Singh

---

**HON'BLE MS. JUSTICE NIRMALJIT KAUR**

**Judgment**

**08/02/2017**

All the above-mentioned writ petitions stand decided by this common order as the issue involved is identical. For convenience, the facts are being taken from SBCWP No.7673/2016.

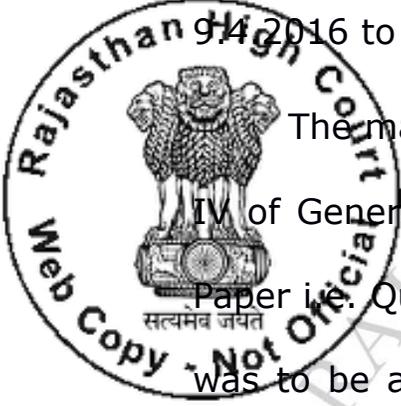
The present writ petition has been filed by the petitioners mainly on three premises viz, (I) that the advertisement issued by the Commission specially provide that the answer to all questions are required to be answered either in Hindi or in English and therefore the Commission was not justified in requiring the candidates to answer paper IV in Rajasthani, (II) It was further argued that number of languages are included in the Rajasthani Language namely Marwardi, Dhudhanti, Brij, Mewati. Hence, it is not clear as to in which language they are required to answer, (III) Rajasthani Language is not recognized official language in Schedule VII to the Constitution of India and therefore Commission was not justified in requiring the candidates to answer questions in Rajasthani.

While praying for giving bonus marks or in the alternative delete the said questions, learned counsel for the petitioner submitted that the cut off marks as shown by the respondents in General category is 350 and the petitioner has scored 348 marks. In case, bonus marks are granted, the petitioner would definitely fall in the merit. After awarding the appropriate marks, a fresh merit list should be prepared.

In pursuance to the advertisement dated 18.6.2013 and subsequent notification dated 24.6.2013, the petitioners applied against the vacancies for the post of RAS in various categories. As



per the advertisement, the written examination was for four papers, each carrying 200 marks. Paper-I and Paper-II were for General Studies-1 and General Studies-2 and Paper-III was for General Studies-3 whereas Paper-IV was for General Hindi and General English. The RAS main examination was held from 9.4.2016 to 12.4.2016.



The main controversy actually herein is with regard to Paper-IV of General Hindi and General English wherein a portion of the Paper i.e. Question Nos. 6 & 7 and Part 'B' carrying 05 marks each was to be answered only in Rajasthani language. Both questions were essay type. It is contended that this stipulation of answering in the Rajasthani Language was not specified in the advertisement and nor in the schedule of syllabus. In fact, as per general instructions issued in the advertisement, it was specifically mentioned that all papers shall be answered either in Hindi or English and no candidate shall be permitted to answer any one paper partly in Hindi and partly in English unless specifically allowed to do so. The same reads as under:-

**“(3) General Instructions:** All papers shall be answered either in Hindi or in English, but no candidate shall be permitted to answer any one paper partly in Hindi and partly in English unless specifically allowed to do so.”

However, when the petitioners went to appear in the said paper, they found that two questions of 05 marks each in Paper-IV Part 'B' were required to be answered exclusively in Rajasthani Language. The two questions which required to be answered in

Rajasthani Language are as under:-

“[k.M & [k

vad % 10

[kkl ckr

(i) lxyk lokyk jk tokc jktLFkkuh Hkk”kk esa bt nso.kk gSA

(ii) b.k [k.M jkS gjsd loky 5 vad jkS gSA

(iii) nksU;wa loky dj.kka t;jh gSA lcn lhek & 80 lcn gSA



6- dfo dUgS;kyky lsfB;k jh fy[;kSM+h dkO;&jpuk ^yhyVkWl\*  
jkS-eww Hkko dkabZ gS \ [kqyklkS djSA

-----  
-----  
-----  
-----  
-----  
-----  
-----

7- jktLFkkuh yksdxkFkk ^fugkyns&lqyrku\* jkS dFkkud lkj :i  
eka; crkvkSA

vFkok

opfudk lwa vki dkabZ le>kS \ vpynkl [khaph jh opfudk jS  
jpukdkj jkS uke crkvkSA

-----  
-----  
-----  
-----  
-----

-----

-----

-----

Learned counsel for the respondents while vehemently opposing the petition submitted that the contention of the learned counsel for the petitioners was incorrect. They were aware that they need to have knowledge of Rajasthani. This was clear from the syllabus itself. and this argument is an afterthought.



Reply has also been filed. As per the reply, the syllabus of paper IV prescribed that subject of Hindi included Rajasthani and carried 120 marks. For subject of Hindi, 100 marks were assigned, whereas, for Rajasthani dialect/literature, 20 marks were assigned. The petitioners have not made any challenge to the syllabus. Syllabus of paper-IV consists of 200 marks and out of the 200 marks, the break-up of the relevant disputed questions as mentioned in the syllabus is as under:-

"Paper-IV (General Hindi & General English) 200 marks

¼jktLFkkuh lkfgR; ,oa cksfy;ka½ 20 Marks

Part 'A' jktLFkkuh lkfgR; ,oa cksfy;ka (Brief)	10
Part 'B' jpukdkj ,oa jpuk,a (Medium)	10

From the above, it is evident that syllabus of Part-A comprised of Rajasthani Literature and Dialects whereas the syllabus of Part-B required the knowledge of Rajasthani. In the Note (c) under the heading of Important Notes of the admission card too, it was specifically mentioned that for language papers, answer has to be in the concerned language and script. The same

reads as under:-

"Attempt answers either in Hindi or English, not in both. For Language Papers answer in concerned language and script, unless directed otherwise to write in Hindi or English specifically."



Further, a perusal of the syllabus of Paper-IV shows that the candidates were required to have knowledge of Rajasthani. The Syllabus of Paper-IV reads thus:-

"Paper – IV  
Knowledge of Language (Hindi and English)  
 प्रश्नोत्तरों में हिन्दी और अंग्रेजी का ज्ञान  
**लक्ष्य: अंग्रेजी में 1/2 अंक**  
 दिये जायेंगे।"

It is evident from the syllabus of Paper-IV that the candidates were required to have knowledge of Hindi, English and "General Hindi included Rajasthani" i.e. "लक्ष्य: अंग्रेजी में 1/2 अंक". In spite of the above, the respondents could not be more fair as they gave marks to candidates even though they answered in Hindi as long as it was correct answer. Hence, this Court directed the respondents to produce the answer-sheets in order to see as to whether the students were discriminated for

giving the answer to these questions in Hindi. The answer sheets pertaining to Question Nos. 6 and 7 were produced before this Court. A perusal of the answer-sheets of the petitioners shows that some of the petitioners who attempted questions No.6 and 7 in Hindi were also given marks as long as it was correct. At the same time, a candidate who attempted the question in Rajasthani was given '0' marks as the answer happened to be wrong. A candidate who did not attempt the question at all in any case had to be given '0' marks. It is evident that the examiner did not distinguish or cut the marks for attempting the questions in Hindi.

For example, one of the petitioners Abha in CWP No.11173/2016 was given 02 marks out of 05 marks, even though she had attempted the question in Hindi whereas Prabha in CWP No.12204/2016 who attempted the question in Rajasthani was given '0' marks because the answer was wrong. Moreover, out of 19 petitioners, 12 petitioners answered the questions in Rajasthani, which shows that the students were aware as per the syllabus that they were required to have knowledge of Rajasthani as well. The marks obtained by each of the petitioners with respect to questions No.6 and 7 and the language in which they attempted are as under:-

CW 10689/2016 (Kornika Jain)	Question No.6 Not attempted. Hence 0	Question No.7 Not attempted. Hence 0
Amit Kaushik	<u>Attempted in Hindi.</u> Wrongly answered. Hence 0	Attempted in Hindi. Wrongly answered. Hence 0
CW 7673/2016 Satish Kumar	<u>Attempted in Rajasthani.</u> Wrongly answered. Hence 0	Attempted in Rajasthani, Partly correct. Hence 1

CW 10684 Anu Sri Pradhan	Attempted in Rajasthani. Wrongly answered. Hence 0	Attempted in Rajasthani, Partly correct. Hence 1
CW 10697/2016 Ganpat Singh	Attempted in Rajasthani. Wrongly answered. Hence 0	Attempted in Rajasthani, partly correct. Hence 1
CW 10862/2016 Harish Kumar	Not attempted. Hence 0	Not attempted. Hence 0
CW 10931/2016 Arun Bissa	Attempted in Rajasthani. Partly correct. Hence ½	Attempted in Rajasthani. Hence ½.
CW 10999/2016 Anju Meena	Attempted in Rajasthani, Partly correct. Hence 2 marks.	Attempted in Rajasthani, wrong answer. Hence 0
CW 11000/2016 Mukesh Manat	Attempted in Rajasthani, Partly correct. Hence 1	Attempted in Rajasthani, Partly correct. Hence 1
CW 11173/2016 Abha	Not attempted. Hence 0	<u>Attempted in Hindi</u> , Partly correct. Hence 2
CW 11174/2016 Jyoti Shahu	Attempted in Rajasthani. Wrong answer. Hence 0	Attempted in Rajasthani. Partly correct. Hence 2
CW 12204/2016 Pratibha	Not attempted. Hence 0	Attempted in Rajasthani, partly correct. Hence 3.50
Prabha	Attempted in Rajasthani, Wrong answer. Hence 2	Attempted in Rajasthani, wrong answer. Hence 0
CW 12205/2016 Deepak Kulhar	<u>Attempted in Hindi</u> , Partly correct. Hence ½	<u>Attempted in Hindi</u> , Partly correct. Hence 1
CW 12248/2016 Shashi Prabha	Attempted in Hindi, Partly correct. Hence ½	Attempted in Hindi, Partly correct. Hence 1
CW 14042/2016 Neetu Arora	Not attempted. Hence 0	Attempted in Rajasthani, Partly correct. Hence 2
CW 14126/2016 Anita Lamba	Attempted in Rajasthani. Wrong Answer. Hence 0	Attempted in Rajasthani. Wrong answer. Hence 0



CW 14152/2016 Mahendra Kumar	Attempted in Rajasthani, Wrong Answer. Hence 0	<u>Attempted in Hindi</u> , Partly correct answer. Hence 3
CW 10697/2016 Ganpat Singh & Anr. Petitioner Mahendra Singh	Not attempted. Hence 0	Attempted in Rajasthani, partly correct answer. Hence 2



Thus, the petitioners have no cause of complaint either way. They were given marks even for attempting in Hindi if they knew the answer.

Moreover, no serious argument or grievance has been raised with respect to Part-A even though it is with respect to the Rajasthani Literature and Dialects being objective type. Question 6 & 7 was subjective. However, in case, a candidate knows Rajasthani Literature and Dialects and is able to attempt Part-A, he should have had no difficulty in attempting Part-B.

The writ petitions also deserve to be dismissed on the ground that the examination was held between 09.04.2016 to 12.04.2016 but the petitioners appeared in the said examination without raising any objection as to the 'condition' set out in the question paper. Thereafter, the petitioners kept quiet for long two months after the written examination was over and waited for the declaration of the result. The petitioners for the first time filed the representation questioning the condition on 19.06.2016 i.e. after the declaration of the result of the main examination. This shows that the petitioners took a calculated chance; meaning thereby that the petitioners were not in doubt about the 'condition' of

knowledge of Rajasthani Language and challenged the same after they failed to qualify the written examination. It is a settled proposition of law that a candidate having appeared and participated in the selection process cannot turn around and challenge the same after he was declared unsuccessful. It was

only after they were found unsuccessful that they filed the present writ petitions. The present petitions are an afterthought.

The Apex Court in the case of **Dhananjay Malik and Others Vs. State of Uttaranchal & Ors. Reported in (2008) 4**

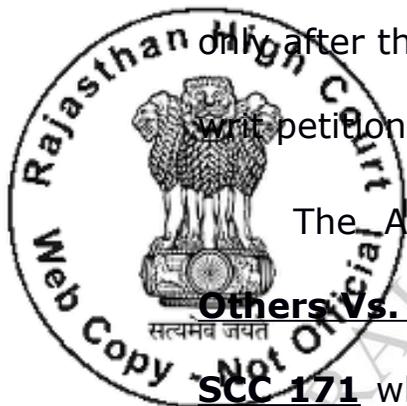
**SCC 171** while relying on the judgment in the case of Madan Lal

Vs. State of J& K (1995) 29 ATC 603 as well as on the judgment in

the case of Marripati Nagaraja Vs. Govt. of A.P. : (2007) 11 SCR

506 held in para 8 and 9 as under:-

"8. In [Madan Lal vs. State of J & K](#), (1995) 3 SCC 486, this Court pointed out that when the petitioners appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned, the petitioners took a chance to get themselves selected at the said oral interview. Therefore, only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed writ petitions. This Court further pointed out that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not



properly constituted. In the present case, as already pointed out, the writ petitioners- respondents herein participated in the selection process without any demur; they are estopped from complaining that the selection process was not in accordance with the Rules. If they think that the advertisement and selection process were not in accordance with the Rules they could have challenged the advertisement and selection process without participating in the selection process. This has not been done.



9. In a recent judgment in the case of [Marripati Nagaraja vs. The Government of Andhra Pradesh](#), (2007) 11 SCR 506 at p.516 SCR this Court has succinctly held that the appellants had appeared at the examination without any demur. They did not question the validity of fixing the said date before the appropriate authority. They are, therefore, estopped and precluded from questioning the selection process.”

In the instant case too, the petitioners at the time of writing the examination paper came to know that they were required to answer the question No.6 and 7 in Rajasthani Language but chose not to raise their voice either during the examination or after the examination was over till as such time they were declared unsuccessful. Even on merits, the stand of the petitioners is found to be incorrect inasmuch as it is evident from the syllabus that 'Hindi included Rajasthani'. Even otherwise, all those who attempted the question in Hindi were granted marks as long as the said answer was correct.

Accordingly, the writ petitions are dismissed being devoid of merit.

In CWP Nos.14042/2016 (Neetu Arora Vs. State of Raj. & anr.) and 14152/2016 (Mahendra Kumar Vs. State of Raj. & anr.), additional ground has been raised. It is contended that the petitioners in these writ petitions filled their form under the category of Departmental Candidate. They were found successful in the preliminary examination as well as in the main examination and qualified for the interview. It is not disputed that the petitioners applied under the wrong category and that their candidature against the quota of DC has been rejected as the petitioners were not eligible to apply under this category. Hence, they were rightly not considered under this category. Further, they cannot even be considered under the General category as they have got less marks than the cut off marks of the last candidate selected under the General category. In any case, they cannot be allowed to change their category at this stage after declaration of the result.

Learned counsel for the petitioner also submitted that mark-sheet has not been uploaded to which learned counsel for the respondent clarified that the same shall be duly uploaded.

Accordingly, the writ petitions No14042/16 and 14152/16 are also dismissed being devoid of merit.

**(NIRMALJIT KAUR), J.**

praveen/Inder