



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

D.B. Civil Writ Petition No. 7840/2019

Sonal Tyagi D/o Jagdish Prasad Tyagi, Aged About 35 Years, R/o  
7/18 Raj Nagar, Ghaziabad, Uttar Pradesh, Pincode-201003.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Law And Legal Affairs Department, Government Of Rajasthan, Secretariat, Jaipur.
2. The Registrar General, Rajasthan High Court, Jodhpur.
3. The Registrar (Examination), Rajasthan High Court, Jodhpur.

-----Respondents

For Petitioner(s) : Mr. Parvez Khan Moyal  
For Respondent(s) : Mr. Sandeep Shah, AAG  
Dr. Sachin Acharya

**HON'BLE THE CHIEF JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE DINESH MEHTA**

**Order**

**12/07/2019**

1. The petitioner seeks a direction to treat her candidature against the 20% of quota earmarked for divorcee candidates (from amongst the women candidates for whom 30% horizontal reservation has been provided) for the post of Civil Judge (JD)-cum-Judicial Magistrate, First Class of the Rajasthan Judicial Services.

2. At the outset, the respondents rely upon the judgment of this Court in *Sunil Bhanwariya Vs. Registrar, Examination Cell, Rajasthan High Court, Jodhpur & Anr.* [D.B. Civil Writ Petition No.3331/20144, decided on 12.05.2014], which states that when



an individual holding himself/herself as a candidate for his/her employment, declares that he or she belongs to a particular category, it is not open for him or her to seek rectification after completion of recruitment process. In that case, the candidate had declared his category as OBC/SBC Creamy Layer and his candidature was processed. Upon his non-inclusion in the select list of OBC/SBC Creamy Layer, he claimed that he belonged to OBC Non-Creamy Layer. The Court declined the relief relying upon a previous Division Bench Ruling in *State of Rajasthan & Anr. Vs. Datar Singh* [D.B. Special Appeal (Writ) No.875/2012, decided on 31.07.2013]

3. The petitioner relies upon the judgment in *Kavita Choudhary Vs. The Registrar (Examination), Rajasthan High Court, Jodhpur & Anr.* [D.B. Civil Special Appeal (Writ) No.1700/2017)], where the Court adopted a divergent view, stating that a bona fide mistake, which does not affect the third party right, should be allowed to be cured.

4. This court is of the opinion that the later Division Bench Ruling in the case of *Kavita Choudhary* (supra) cannot be treated as a binding precedent. It clearly ignored the previous Rulings of this Court of a Coordinate Bench Strength (DB) without referring to a Larger Bench. Furthermore, the view that no-one would be prejudiced if mistakes are corrected, in the respectful opinion of this court, is unacceptable.

5. In this case, the petitioner secured 51 marks; the cut-off for General Category was 60. After realizing that she was not likely to be selected, she approached the Court with the realization that the cut-off marks for divorcee category were 43.



6. If reliefs were to be afforded in such circumstances, those in the merit list, in the divorcee category and who had declared themselves to be as such, would surely be displaced. This is prejudice enough, to make this Court not grant any relief.

7. The writ petition is, therefore, dismissed.

**(DINESH MEHTA),J**

**(S. RAVINDRA BHAT),CJ**

99-skm/-

RAJASTHAN HIGH COURT



सत्यमेव जयते