RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Civil Writ Petition No. 20620/2026
CNR: RJHC010867752026 | URN: CW / 35145U / 2026

Pravin Vaishnav S/o Shri Narendra Vaishnav, Aged About 28 Years, R/o 1/54, Housing Board, Pratapgarh, Rajasthan.

----Petitioner

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Versus

1. The State Of Rajasthan, Through The Principal Secretary, Department Of Education, Govt. Of Rajasthan, Jaipur, Rajasthan.
2. The Director And Ex-Officio, Additional State Project Director (Senior) Samsa, Secondary Education Department, Bikaner, Rajasthan.
3. The Secretary, The Rajasthan Staff Selection Board, Ajmer, Rajasthan.
4. The Joint Director, Department Of Education, Division-Udaipur, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Zafar Khan
For Respondent(s) : Mr. N.K. Mehta, DGC

HON'BLE MR. JUSTICE KULDEEP MATHUR

ORDER

Reserved on : 02/11/2026
Pronounced on : 20/11/2026

1. The present writ petition under Article 226 of the Constitution of India has been filed by the petitioner seeking consideration of his candidature for appointment to the post of Senior Teacher (Sanskrit) pursuant to the recruitment advertisement dated 11.12.2024, assailing the action of the respondents in omitting his roll number from the final list of successful candidates dated 29.06.2026.

2. The respondent authority issued an advertisement dated 11.12.2024 inviting applications for recruitment to the post of

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Senior Teacher in various subjects. The petitioner applied for the post of Senior Teacher (Sanskrit) and participated in the selection process. Upon declaration of the result, the petitioner, bearing Roll No. 2652406, was placed at Merit Rank M-109 in the main merit list dated 09.06.2026. Subsequently, vide list dated 05.06.2026, his candidature was reflected as provisional, with the notation 'P' against his merit number.

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3. The petitioner had earlier faced criminal proceedings arising out of an FIR registered against him for offences under Sections 342, 326 and 307 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The case was tried before the Special Court for Scheduled Castes/Scheduled Tribes (Prevention of Atrocities Cases), Jodhpur, and the petitioner was acquitted vide judgment dated 27.08.2022. During the document verification process on 02.04.2026, the petitioner submitted the relevant documents, including the FIR and the judgment of acquittal. Thereafter, he also furnished the said documents along with his police verification certificate to the respondent authorities.

4. Subsequently, the respondents issued a list dated 24.06.2026 inviting preferences for division allotment, wherein the petitioner's roll number was also included at Serial No. 1284. The petitioner submitted his preferences accordingly. However, his roll number did not find mention in the final list of successful candidates for appointment and posting dated 29.06.2026. The petitioner thereafter submitted representations and approached the respondent authorities seeking consideration of his

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candidature. The respondents, vide communication dated 12.08.2026, issued further instructions regarding the process of appointment of successful candidates.

5. Learned counsel for the petitioner submits that the petitioner had secured Merit Rank M-109 and had also been included in the division allotment list dated 24.06.2026. It is contended that despite the petitioner having disclosed the criminal proceedings and furnished the judgment of acquittal during document verification, his candidature was withheld without any reasoned decision or opportunity of hearing. Learned counsel further submits that the respondents cannot deny consideration of his candidature merely on account of the past criminal case, particularly when the petitioner stands acquitted by a competent criminal court.

6. *Per contra*, learned counsel for the respondents submits that the petitioner was acquitted in the criminal case involving serious offences under Sections 342, 326 and 307 IPC and the provisions of the SC/ST Act on account of lack of evidence. It is contended that, in terms of the Department of Personnel circulars dated 04.12.2019 and 26.10.2021, the cases of candidates having criminal antecedents are required to be placed before a duly constituted committee for determining their suitability for appointment, and the petitioner's case is yet to be considered by the said committee. Learned counsel further submits that, having regard to the nature of the offences and the responsibilities attached to the post of Senior Teacher, the petitioner cannot claim appointment merely on the basis of his inclusion in the merit list.

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Reliance is placed upon the decisions of the Hon'ble Supreme Court in ***State of Odisha & Ors. v. Gobinda Behera, AIRONLINE 2020 SC 255, and Union Territory, Chandigarh Administration & Ors. v. Pradeep Kumar & Anr., AIR 2018 SUPREME COURT 376***.

7. Heard learned counsel for the parties and perused the material available on record.

8. Having considered the rival submissions and perused the material available on record, this Court finds that the petitioner participated in the selection process, secured Merit Rank M-109 and was included in the list inviting preferences for division allotment. It is not disputed that the petitioner had faced criminal prosecution for offences under Sections 342, 326 and 307 IPC and Section 3(2)(v) of the SC/ST Act, but was acquitted vide judgment dated 27.08.2022. It is also not the case of the respondents that the petitioner concealed the aforesaid criminal proceedings or failed to furnish the relevant documents during the document verification process.

9. The law governing consideration of the candidature of a person having criminal antecedents has been authoritatively laid down by the Hon'ble Supreme Court in ***Avtar Singh v. Union of India & Ors., (2016) 8 SCC 471***. The relevant observations contained in paragraph 38.4.3 thereof are reproduced as under:

> *"38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all*

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relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee."

The Hon'ble Supreme Court further observed in paragraph 38.5 as under:

"38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate."

10. The aforesaid principles make it clear that neither does acquittal in a criminal case automatically confer an indefeasible right to appointment nor can the candidature of a person be rejected mechanically merely because he had faced criminal prosecution. The employer is required to consider the nature of the allegations, the circumstances leading to the prosecution, the manner in which the criminal proceedings culminated and the suitability of the candidate having regard to the nature of the post. In the present case, the offences alleged against the petitioner are undoubtedly serious in nature. However, the mere reference to the penal provisions, without examining the relevant facts and the judgment of acquittal, cannot by itself form the basis for denying consideration of his candidature.

11. Curiously, this Court has perused the order dated 27.08.2022 passed by the Special Court, SC/ST Cases, Jodhpur, in Sessions Case No. 138/2021, whereby the petitioner was acquitted of the charges under Sections 342, 326 and 307 IPC and Sections 3(2)(iv) and 3(2)(va) of the SC/ST Act. Upon careful perusal of the aforesaid judgment, this Court finds that, though the allegation against the petitioner was that, on the date of the incident, he had unauthorisedly entered the house of the injured and inflicted

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injuries upon her using a sharp-edged weapon (scissors), during the course of the trial, the eyewitnesses, namely, the complainant and the injured, stated that on the date of the incident, a man wearing a face mask had entered the house and committed the aforesaid offences. Further, the judgment of the trial court does not make any mention of the recovery of any weapon at the instance of the present petitioner. Thus, this Court is of the opinion that, though the learned trial court acquitted the petitioner by giving him the benefit of doubt, the same virtually amounts to an acquittal on merits due to lack of evidence after full consideration of the prosecution evidence, wherein the prosecution miserably failed to prove the charges against him.

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12. The relevant portion of order/judgment dated 27.08.2022 passed by the Special Court, SC/ST Cases, Jodhpur, in Sessions Case No. 138/2021 is reproduced below for ready reference:

> *"14.* पत्रावली पर उपलब्ध साक्षीगण की साक्ष्य का सूक्ष्मतापूर्वक विवेचन किया जावे तो प्रकरण में महत्वपूर्ण साक्षीगण घटना के संबंध में तात्विक प्रकृति की साक्ष्य नहीं देते हैं। स्वयं पीड़िता मनीषा मीणा ने उसके साथ मारपीट करने वाले को नहीं देख पाना, उसे नहीं जानना व प्रवीण द्वारा उसके साथ मारपीट करने के तथ्य से इंकार किया। इसी प्रकार अन्य गवाह परिवादी शिवलाल, कंचन व लीला द्वारा भी मनीषा के साथ मारपीट किसके द्वारा की गई, उन्हेज्ञात नहीं होना कथित किया है व उक्त समस्त गवाहान द्वारा पीड़िता व परिवादी के मध्य राजीनामा होने के कथन भी किए गए हैं। किसी भी गवाह द्वारा अभियुक्त प्रवीण वैष्णव द्वारा पीड़िता मनीषा मीणा के साथ मारपीट की गई हो, इस संबंध में लेशमात्र भी कथन नहीं किए गए हैं। पत्रावली पर उक्त साक्षीगण के अतिरिक्त ऐसी कोई साक्ष्य नहीं है जिससे अभियुक्त ६ ाटना में संलिप्त रहा हो, प्रकट होता हो। इस प्रकार अभियुक्त द्वारा पीड़िता का सदोष परीरोध करते हुए उसके साथ कैंची से मारपीट कर उसके गर्दन, हाथ व शरीर के विभिन्न भागों पर गंभीर उपहतियां कारित करने व उस पर जानलेवा हमला कर उसकी हत्या करने का प्रयत्न करने व अपराध धारा *307* भारतीय दंड संहिता का अपराध, जो कि दस

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वर्ष के कारावास से दंडनीय होकर अपराध धारा *3(2) (v)* अनुसूचित जाति एवं अनुसूचित जनजाति *(अ.नि.)* अधिनियम के तहत दंडनीय है, के बाबत शब्द मात्र भी साक्ष्य नहीं है जिससे अभियुक्त को साक्ष्य के अभाव में संदेह का लाभ दिया जाना न्यायसंगत प्रकट होता है।

आदेश -

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15. एतद्वारा अभियुक्त प्रवीण वैष्णव पुत्र श्री नरेन्द्र वैष्णव, उम्र *23* वर्ष, निवासी मकान नं. *1/54* हाउसिंग बोर्ड, पीएस प्रतापगढ जोधपुर को आरोपित अपराध अंतर्गत धारा *342,326,307* भारतीय दण्ड संहिता एवं धारा *3 (2) (v)* अनुसूचित जाति एवं अनुसूचित जन जाति *(*अत्याचार निवारण*)* अधिनियम के आरोप में साक्ष्य के अभाव में दोषमुक्त घोषित किया जाता है।

16. अभियुक्त द्वारा प्रकरण में अपराध कारित किया जाना प्रमाणित नहीं हुआ है। ऐसी स्थिति में आहत् को प्रतिकर दिलाए जाने की अभिशंसा किया जाना न्यायोचित प्रतीत नहीं होता है।"

13. It is also noted that the expression 'honourable acquittal' or 'clean acquittal' is not defined under the Cr.P.C. or the BNSS. Therefore, in view of the fact that the petitioner's acquittal by the learned trial court is based on lack of evidence and not on account of contradictions in the prosecution evidence or any other circumstance leading to the extension of the benefit of doubt, the acquittal of the petitioner by the learned trial court is required to be treated as an honourable/clean acquittal.

14. The Department of Personnel circulars dated 04.12.2019 and 26.10.2021, reference to which has been made by the respondents in their reply, indicate that, being conscious of the aforesaid legal position, the Government of Rajasthan itself constituted a committee to determine the suitability of candidates who have faced criminal trials. However, in the present case, it appears that either the petitioner's case was not placed before such committee in terms of the aforementioned circulars or the committee did not objectively consider the petitioner's case after

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examining the judgment of acquittal passed by the learned trial court. The mere fact that a meeting of the committee has not been convened cannot be a justification for keeping the petitioner's candidature in abeyance indefinitely, particularly when he has otherwise qualified in the selection process and furnished the relevant documents. Thus, the petitioner has been deprived of appointment to the advertised post, despite possessing the requisite eligibility, for no fault on his part.

15. In view of the foregoing discussion, this Court finds that the action of the respondents in omitting the petitioner's candidature from the final list dated 29.06.2026, without undertaking the assessment contemplated under their own circulars, cannot be sustained.

16. Consequently, the writ petition is allowed. The action of the respondents in withholding consideration of the petitioner's candidature is set aside. The respondents are directed to accord him appointment in accordance with his merit and category, subject to fulfilment of the other prescribed eligibility conditions, within a period of sixty days from the date of passing of this order.

17. All pending application(s), if any, also stand disposed of.

(KULDEEP MATHUR),J

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