



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

S.B. Civil Writ Petition No. 19314/2023

Lal Chand S/o Shri Shalu Ram, Aged About 29 Years, R/o Vpo
Khanuwali, 17 K Nda, Rawla Mandi, District Anupgarh, Raj.

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary,
Department Of Personnel, Secretariat, Main Building,
Bhagwan Das Rd, Jaipur, Rajasthan 302005
2. State Of Rajasthan, Through Its Secretary,
Department Of Education (Secondary), Secretariat,
Government Of Rajasthan, Jaipur, Rajasthan.
3. The Director, Secondary Education Rajasthan, Bikaner,
Rajasthan.
4. District Education Officer (Head Quarter), Secondary
Education, Phalodi, District Phalodi.

-----Respondents

For Petitioner(s)	:	Mr. Divik Mathur
For Respondent(s)	:	Mr. N.K. Mehta, Dy.G.C. with Mr. Bhupesh Charan

HON'BLE MR. JUSTICE ARUN MONGA

Order(Oral)

Reportable

18/05/2026

1. Writ petition herein has been filed, *inter alia*, seeking quashing of a Circular dated 04.12.2019 issued by the respondents, whereby certain conditions have been prescribed which render a candidate ineligible for appointment to Government services/posts. The petitioner also seeks a further direction to the respondents to conduct his character verification strictly in accordance with the procedure prescribed under the relevant Service Rules and to permit the petitioner to join his duties.



2. The relevant English translation of impugned circular dated 04.12.2019 is reproduced herein below:-

“Therefore, by way of general guidance to appointing authorities, illustrative categories of such cases are being enumerated hereinbelow:-

1. Cases/Situations in which ineligibility for appointment should be considered:-

If any candidate is involved in any of the following types of offences and the case is under investigation/trial before a court, or the candidate has been convicted and sentenced, such candidate should not be considered eligible for appointment to services/posts under the State:-

(i) Involvement in offences involving moral turpitude such as cheating, forgery, intoxication, rape, or outraging the modesty of a woman.

(ii) Involvement in illicit trafficking as defined under the Narcotic Drugs and Psychotropic Substances Act, 1988 (Act No. 26 of 1988).

(iii) Involvement in immoral trafficking as defined under the Immoral Traffic (Prevention) Act, 1956 (Central Act No. 104 of 1956).

(iv) Involvement in organised violence or offences against the State as described in Chapter VI of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

(v) Involvement in offences described in Chapters XVI and XVII of the Indian Penal Code.

(vi) Involvement in offences under Sections 147 and 148 of the Indian Penal Code (rioting).

(vii) Involvement in offences under Section 498-A of the Indian Penal Code (cruelty towards women/dowry-related offences).

(viii) Involvement in offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(ix) Involvement in offences under the Protection of Children from Sexual Offences (POCSO) Act, 2012.

It is also clarified here that candidates who deliberately conceal any information relating to the aforesaid types of offences shall be considered ineligible for appointment.

2. Cases/Situations in which a candidate should be considered eligible for appointment:-

(i) Candidates who were not found guilty during investigation in a criminal case and in whose case a Final Report (F.R.) has been submitted before the Court within one year from the declaration of the examination result relating to the recruitment.

(ii) In cases of acquittal, a Committee constituted by the Department for this purpose, in which one police officer shall also be a member, shall duly examine the antecedents of the candidate, the gravity of the allegations, and the basis of acquittal, i.e., whether the acquittal was honourable or based on benefit of doubt/compromise, etc.,





and shall take a decision regarding grant of appointment to the candidate.

(iii) Cases of candidates who have been released on probation after being granted the benefit of Section 12 of the Probation of Offenders Act by the Court (conviction not carrying any disqualification / no adverse effect on government service or future life).

(iv) Cases of candidates who, after being held guilty, have been granted the benefit of Section 24(1) of the Juvenile Justice (Care and Protection of Children) Act, 2005.

All appointing authorities are expected to take appropriate decisions regarding character/police verification of candidates at the time of appointment, keeping in view the provisions of the relevant service rules and these guidelines. Such cases should neither be kept pending unnecessarily nor referred to the Department of Personnel.”

We are concerned here with applicability and interpretation of clause 2(ii) as underlined above. More of it later.

3. The relevant facts of the case are that respondent No. 2 issued an advertisement dated 16.06.2022 for direct recruitment to the post of Physical Training Instructor (PTI) Grade-III. A total of 5,546 vacancies were notified.

3.1. Petitioner, being an aspirant also applied and participated in selection. He secured marks above the prescribed cut-off marks.

3.2. The final result for the post of PTI Grade-III was declared on 07.07.2023 and the petitioner was declared successful. Subsequently, the District Education Officer, Secondary Education, Phalodi, issued an order dated 29.09.2023 appointing the petitioner at Government Upper Primary School, Chouhano Ki Dhani, Phalodi.

3.3. In the interregnum, an FIR bearing No. 0232/2023 came to be registered against the petitioner at Police Station Rawla, Anupgarh, under Sections 376, 506 and 34 IPC along with Section 3(2)(VA) of the SC/ST Act. According to the petitioner, the said FIR was lodged on 30.08.2023 in relation to an alleged incident dated 08.07.2023, i.e., after declaration of the final result on 07.07.2023.

3.4. Petitioner submitted his joining report before the concerned Headmaster on 10.10.2023; however, he was not permitted to join





duties. It is further submitted that the petitioner thereafter approached the PEEO, Government Senior Secondary School, Bamnu, Phalodi, on the same day, but he was again not permitted to join.

3.5. Hence, the petition in hand.

3.6. After filing of the petition, subsequently, it was also deposed vide an additional affidavit dated 28.08.2024 that the concerned Police Station, after conducting a thorough investigation, submitted a negative final report dated 28.11.2023 before the Learned Trial Court.

3.7. Notwithstanding, the petitioner when approached the respondents for joining, he was not permitted to assume charge, and no formal reason was communicated to him. The petitioner asserts that the respondents have wrongly relied upon the impugned circular dated 04.12.2019, supra, issued by the Department of Personnel concerning character verification of candidates for government appointments.

4. Stand taken *inter alia* by the respondents in the reply (Grounds A to Z) is reproduced herein below:

“It is submitted that in the memo of the writ petition, petitioner has mentioned facts regarding registration of FIR for offence under IPC and Act of 1989. Once the criminal antecedents against the petitioner have been taken into consideration by the appointing authority, looking to the eligibility criteria prescribed for the post, nature of duties of the post notified as well as terms and conditions of the recruitment notification, the appointing authority rightly and justifiably made its opinion that the candidate seeking employment on the post of School Lecturer must have good character and antecedents.”

5. Mr. Divik Mathur, learned counsel for the petitioner, submits that, during the pendency of the proceedings, the concerned Police Station, after conducting a thorough investigation into the FIR lodged against the petitioner, submitted a negative final report dated 28.11.2023 before the Learned Trial Court. It is argued that the investigation categorically revealed the allegations levelled against the petitioner to be false and baseless, and consequently, the final report was filed in his favour. The said Final Report has been placed on record along with





additional affidavit dated 28.08.2024. Relying upon the same, he would thus urge that petition be allowed and directions be issued to the respondents to allow the petitioner to join on the post in question. He would also submit that the interpretation resorted by the respondents qua the circular is patently illegal and if such an interpretation is to be accepted then the circular is liable to be set aside being arbitrary and in violation of the fundamental rights of a candidate to be considered eligible for appointment despite there being no legal impediment qua the same.

6. Per contra, Mr. N.K. Mehta appearing for the respondents opposes the petition and seeks its dismissal relying on the circular dated 04.12.2019. He contends that the petitioner at the relevant time was since involved in offences against the State as described in Chapter VI of Indian Penal Code, 1860, therefore, he is not eligible to be considered for appointment on the post in question even if he is otherwise successful in the selection process. He would also rely on the stand taken by the respondents in the reply filed to the petition, as already extracted herein above in Para-5 in the preceding part.

7. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

8. I shall now proceed to render my opinion on the rival stands taken by the parties herein above by recording discussion and giving reasons thereof in the succeeding part of the order.

9. First and foremost, English translation of the relevant extract of Final Negative Report dated 28.11.2023 be seen, which reads as under:

“15. It has further emerged from the overall investigation, analysis of evidence, and verification that the complainant Ms. Kamla Kumari and the alleged accused persons Lalchand, Anita, Mamta, and Gurmeet Kaur were all preparing for competitive examinations. It was found that after the selection of the alleged accused Lalchand and Mamta as Government Teachers, the complainant, out of jealousy, village rivalry, and factionalism, and under



someone's influence, lodged a false and fabricated criminal case against Lalchand with the intention of extorting money from him. The matter has thus been found to be one of "F.R. Adam Waqoo (False Case)."
The investigation conducted earlier by Shri Vinod Kumar, RPS, Circle Officer, Circle Office Khajuwala, has also been found to be duly corroborated and confirmed. Upon complete investigation, the matter has been found to be false and fabricated in nature."

As already stated, the aforesaid final negative report has been placed on record vide additional affidavit dated 28.08.2024. The respondents have not controverted the same as in response thereto, no counter-affidavit and / or any additional affidavit has been filed by the respondents.

10. At the very threshold, I am of the view that since the FIR did not result into any adverse action against the petitioner in view of negative final report as above, it is not a case where the petitioner can be put any consequences for the fault of third party in registering a false case against him, for such a recourse is fraught with danger of arbitrariness apart from punishing a candidate for no fault of his. Reasons are not far to seek.

11. The mere registration of an FIR is not proof of involvement; it is, at best, an allegation, and an allegation that has been negated on investigation carries no legal consequence against the person so accused. To hold otherwise would mean that any candidate could be deprived of public employment simply because a disgruntled relative or adversary chose to lodge a false complaint, a proposition that would place a citizen's career at the mercy of the malice of others and reward the very act of false implication. In these circumstances, the petitioner cannot be visited with any adverse consequence, whether by way of withholding his appointment, deferring it indefinitely, or keeping his candidature in perpetual abeyance, merely because a third party chose



to register a false case against him or may file a belated protest petition.

12. To penalise a candidate for the wrongful act of another, in respect of allegations that the investigation itself has found to be false and unsubstantiated, apart from amounting to punish him for no fault of his own, would be a course which offends the basic notion of fairness implicit in Article 14. For, it visits civil consequences upon a person in the absence of any culpability and on a foundation that has legally ceased to exist. The law does not countenance such an outcome. Once the cloud of the FIR stood completely dispelled by the negative final report, the very substratum for keeping the petitioner's case pending or for denying him the benefit of selection disappeared, and the respondents could not legitimately rely upon those closed proceedings to his prejudice.

13. Adverting now to the applicability of the circular dated 04.12.2019, *ibid*, to a case where the investigating agency has itself given the candidate a clean chit, having found the allegation of false charges and the candidate to have been wrongly implicated, has to be understood by reading the two limbs of the circular harmoniously rather than in isolation i.e. clause 1(i) vis-a-vis clause 2(i) therein.

14. At first blush, it may appear that the petitioner's case falls within the disqualifying net of the circular, since clause 1(i) expressly lists rape and offences involving outraging the modesty of a woman among the offences of moral turpitude that render a candidate ineligible. A literal and mechanical reading of that clause, taken alone, might suggest that the mere fact of having been named in a rape case is sufficient to deny appointment. Such a reading, however, would be both incomplete and contrary to the avowed object of the circular.



14.1. The decisive consideration is the precise condition that clause 1 itself attaches to ineligibility. By its own terms, the disqualification under Category 1 operates only where the candidate "is involved" in such an offence and the case is "under investigation/trial before a court," or where the candidate "has been convicted and sentenced."

14.2. The clause is thus predicated upon a live accusation i.e. one that is either still under investigation, pending trial, or has culminated in conviction. It does not, and cannot, extend to a case where the investigating agency has concluded its inquiry and affirmatively found that no offence was made out and that the candidate was falsely implicated. Once the investigation ends in a negative final report, the very foundation on which clause 1 rests, namely, a subsisting or proven accusation, ceases to exist.

15. The petitioner's case herein, on the facts posited, instead falls squarely within Category 2(i), which expressly renders eligible those "candidates who were not found guilty during investigation in a criminal case and in whose case a Final Report (F.R.) has been submitted before the Court" within one year from the declaration of the examination result.

15.1. A clean chit by the investigating agency in a false rape case is precisely the situation this clause contemplates. The candidate herein stands exonerated at the very stage of investigation, the agency having found the allegation to be fabricated.

15.2. The position of the petitioner herein, therefore, is stronger than that of a candidate acquitted on the merits, for the accusation against him never crossed the threshold of investigation.

16. The aforesaid construction is reinforced by the guiding principle that the circular itself adopts from the decision of the Hon'ble Supreme



Court in ***Delhi Administration v. Sushil Kumar***¹, namely, that what is relevant is the character and antecedents of the candidate rather than the bare result of a criminal case, and that the appointing authority must apply its mind to the merits, the nature of the offence, and the circumstances of each case rather than act on the mechanical fact of a case having been registered.

17. Thus, where the surrounding circumstances reveal that the candidate was a victim of false implication, and the investigating agency has so found, the antecedents disclose no blemish, whatsoever, upon his character. To treat such a candidate as ineligible would be to elevate the mere registration of a false FIR to the status of a disqualification. It is exactly such a result which the circular seeks to prevent, given that its stated purpose is to remove the very "lack of clarity" that led appointing authorities to deny appointment on the strength of criminal records that ought not to count against a candidate.

18. It follows that, the respondents are misreading the circular in the case in hand. Instant is a case where the candidate has been given a clean chit by the investigating agency and the rape allegation has been found to be false. The disqualification in clause 1(i) is thus not attracted, and the candidate is entitled to be treated as eligible under clause 2(i). The appointing authority is obliged to take its decision on this footing, on the merits and in accordance with the circular, rather than withhold or defer the appointment on the basis of a case that investigation itself has shown to be baseless. Any contrary approach would penalise the candidate for the wrongful act of another and reintroduce precisely the arbitrariness that both the service rules and the circular seek to eliminate.

¹ 1996(11) SCC 605



19. The only caveat in the circular is that the eligibility under clause 2(i) is conditioned on the final report having been filed within one year of the declaration of the recruitment result. The result of the petitioner was declared on 07.07.2023, whereas he was implicated in the FIR dated 30.08.2023 and exonerated vide negative report dated 28.11.2023, and thus he is clearly eligible as per clause 2(i), *ibid*.

20. Accordingly, the writ petition is allowed.

21. The respondents are directed to consider the candidature of the petitioner subject to the post being available as on today and in case he is found otherwise fit, eligible and meritorious he shall be given the benefit of his performance in the selection process. In case the post is not available, petitioner shall be considered for appointment as and when the next vacancy arises in future. For the period he remained out of service, he shall not be entitled for any monetary benefits on the principle of "No Work, No Pay".

22. Needful be done within a period of three months from the petitioner approaching the respondents with a web print of the instant order.

23. Pending applications stand disposed of.

(ARUN MONGA),J

154-Devanshi/-