



  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

D.B. Special Appeal Writ No. 873/2020

In

D.B. Civil Writ Petition No.8413/2020  
CNR: RJHC020686332020 | URN: SAW / 1367U / 2020

Santosh Devi W/o Karmveer D/o Mohar Singh

-----Appellant

Versus

State of Rajasthan & Ors.

-----Respondents

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|                   |   |                                                                                            |
|-------------------|---|--------------------------------------------------------------------------------------------|
| For Appellant(s)  | : | Mr. Sudhir Yadav                                                                           |
| For Respondent(s) | : | Mr. G.S. Gill, AAG with<br>Ms. Shikha Sharma,<br>Ms. Anisha Sharma and<br>Mr. Aditya Singh |

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**HON'BLE MR. JUSTICE SUDESH BANSAL**  
**HON'BLE MR. JUSTICE ANUROOP SINGHI**  
**Order**

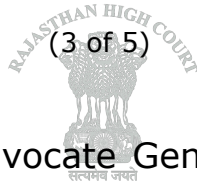
**15/10/2026**

1. Heard learned counsel for both parties on the stay application.
2. In the stay application, appellant – original writ petitioner has sought directions against respondents to permit her to contest the Panchayati Raj Election under SC Category.
3. In the writ petition, prayer was made by the appellant-writ petitioner for issuance of Caste Certificate of SC Category. The writ petition was filed by the appellant-writ petitioner, in the background because petitioner, admittedly, migrated from State of Haryana to State of Rajasthan, hence respondents refused to issue a caste certificate of SC Category to the petitioner for the reason that migrated person is not entitled to claim benefit of reservation in the State where he/she has migrated.



4. Learned Single Judge vide impugned judgment dated 24.09.2020, allowed the writ petition partially and while relying on the judgment of Hon'ble Supreme Court delivered in case of **Bir Singh Vs. Delhi Jal Board & Ors.** reported in **(2018) 10 SCC 312**, permitted petitioner to apply for issuance of Caste Certificate before the concerned authority and the concerned authority has been directed to issue Caste Certificate after following the due procedure but with a rider/note thereupon that "*on the basis of this Caste Certificate, the migrated person shall not be entitled to claim benefit of reservation in public employment and elections including Panchayat Elections*". Learned Single Judge further made it clear that the Caste Certificate to petitioner has been permitted to be issued only for the limited purpose of claiming benefits specifically made available for such migrant person in government schemes.

5. Counsel for the appellant submits that the learned Single Judge erred in putting restrictions to use the Caste Certificate of petitioner for claiming reservation, in the elections including Panchayat Elections and to this extent, direction is arbitrary and beyond the spirit of the judgment of Hon'ble Supreme Court, in case of **Bir Singh** (supra), hence, to this extent, the operation of impugned judgment deserves to be stayed, so that consequentially, the Caste Certificate issued by respondents-authorities to petitioner may be used by her for claiming reservation available to the SC Category candidates in the coming Panchayati Raj Elections scheduled from 08.10.2026 to 06.11.2026.



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6. Learned Additional Advocate General appearing on behalf of respondents pointed out that the Division Bench of this Court in an another case of **State of Rajasthan & Ors. Vs. Manju Yadav & Ors.** decided vide judgment dated 18.09.2018 while placing reliance on the judgment of **Bir Singh (supra)**, put a restriction on claiming the benefit of reservation by the families, who have migrated from out of Rajasthan to the State of Rajasthan, in the public employment. Further, relying on the judgment dated 18.09.2018, the Division Bench of this High Court, in an another case of **Rekha Kumari Vs. State of Rajasthan & Ors.:D.B. Special Appeal Writ No.319/2021** and other connected matter(s), decided the appeal finally vide common judgment dated 24.03.2023 and has specifically declined the prayer of appellants for claiming benefit of reservation in the Panchayat Election based on the basis of Caste Certificate issued in favour of migrated person and further, direction have been issued to put a note on the caste certificate that the migrated person shall not be entitled to claim benefits of reservation in public employment and election including panchayat election. Hence, submission of learned AAG is that this Court may not take a contrary view than taken by the Division Bench of this Court in judgment dated 24.03.2023 in the case of **Rekha Kumari (supra)**.

7. Although, counsel for the appellant tried to persuade this Court by placing reliance upon the facts of the case of one another female namely Smt. Bhateri Devi, who also migrated from another State to the State of Rajasthan and was belonging to OBC Category and a caste certificate of OBC was also issued to her in





the State of Rajasthan, on the basis of which she contested Panchayati Raj Elections in the year 2022. Subsequent to her winning the elections, an election petition was filed by the defeated candidate on the ground that the caste certificate of OBC Category was wrongly issued to Smt. Bhateri Devi. Such ground of challenge was taken based on the judgment dated 24.09.2020, which is subject matter of challenge in the present appeal.

Confronted with the said situation, Smt. Bhateri Devi sought to challenge the judgment dated 24.09.2020 after seeking leave to appeal, as the *ratio decidendi* expounded in the said judgment, was adversely affecting her rights. The Division Bench of this Court, dismissed her application for seeking leave to appeal (D.B. CMA No. 1/2021) and consequently, dismissed the appeal as well, (D.B. SAW No. 2/2021) vide order dated 25.05.2022, thereagainst she approached before the Hon'ble Supreme Court by filing Special Leave Petition No.16926/2022. In the said SLP, the Hon'ble Supreme Court vide interim orders dated 19.09.2022 and 28.11.2022, has stayed the further proceedings in the Election Petition filed against her on the ground that the issue of restriction in panchayat election, of migrated person is under consideration before the Hon'ble Supreme Court. Therefore, counsel for appellant made an attempt to urge that since the issue is *sub judice* before the Hon'ble Supreme Court, hence, until deciding the issue by Hon'ble Supreme Court, in the interregnum period appellant-writ petitioner be permitted to contest the election of Panchayati Raj, permitting her to take benefit of the reservation,



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based on the Caste Certificate of SC category, to be issued in her favour by the respondents in furtherance to the judgment impugned.

8. Heard, Considered.

9. We are of the considered opinion that the Co-ordinate Bench of equal strength of this High Court in case of ***Rekha Kumari (supra)***, virtually after following the judgment of Hon'ble Supreme Court in case of ***Bir Singh (supra)***, has categorically taken a view declining the benefit of reservation to the migrated person, based on the caste certificate, in the Panchayat Election so much so, has also directed to put a rider/note on the Caste Certificate, that the migrated person shall not be entitled to claim benefit of reservation in public employment and elections including Panchayat Election. It may be true that the issue may be *sub judice* before the Hon'ble Supreme Court, however, the judgment of Division Bench in case of ***Rekha Kumari (supra)*** has not yet been stayed or set aside, hence, we are not convinced to take a contrary view.

10. Therefore, the prayer made in the stay application is rejected and stay application is hereby dismissed.

11. In view of dismissal of stay application, application No.2/2026 filed by appellant for passing appropriate order on stay application, also stands disposed of.

12. Since appeal has already been admitted, let this appeal be listed for hearing.

**(ANUROOP SINGHI),J**

**(SUDESH BANSAL),J**

SA/08/JAYANT - NITIN

