



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

**(1) S.B. Civil Writ Petition No. 6707/2020**

1. Dr. Rajveer Singh S/o Late Shri Pritam Singh, Aged About 32 Years, Holding The Post Of Medical Officer At Community Health Centre Kherwara, District Udaipur (Raj.) Presently Posted As Senior Resident In Department Of Surgery, Rnt Medical College, Udaipur (Raj.). Mobile No. 9950230111.



2. Dr. Mahesh Chand Bairwa S/o Shri Radha Kishan Bairwa, Aged About 41 Years, Holding The Post Of Junior Specialist At Tb Clinic, Rajsamand (Raj.) Presently Posted As Assistant Professor (Utb), In Department Of Respiratory Medicine, Rnt Medical College, Udaipur (Raj.).
3. Dr. Bishan Bairwa S/o Shri Pooran Mal Bairwa, Aged About 42 Years, Holding The Post Of Junior Specialist At Government Hospital Dungarpur (Raj.). Presently Posted As Assistant Professor (Utb) In Department Of Anesthesia, Rnt Medical College, Udaipur (Raj.).
4. Dr. Mahesh Mahich S/o Shri Moti Ram Mahich, Aged About 41 Years, Holding The Post Of Junior Specialist, Resident Of 7, Madhuban, Udaipur, Presently Posted As Assistant Professor (Utb), In Department Of Respiratory Medicine, Rnt Medical College, Udaipur (Raj.).
5. Dr. Goutam Bunkar S/o Shri Kalu Lal Bunkar, Aged About 45 Years, Holding The Post Of Junior Specialist Resident Of C-24, Saheli Nagar, Udaipur, Presently Posted As Assistant Professor (Utb) In Department Of General Medicine, Rnt Medical College, Udaipur (Raj.).

----Petitioners

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Medical Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Additional Director (Administration), Medical Education Department, Directorate Of Medical Education, Chikitsa Shiksha Bhawan, Govind Marg, Jaipur.
3. The Principal And Controller, Rabindranath Tagore Medical College And Associated Group Of Hospitals, Udaipur.
4. The Rajasthan Public Service Commission, Ajmer,



Through Its Secretary.

----Respondents

Connected With

**(2) S.B. Civil Writ Petition No. 6701/2020**

1. Dr. Dheeraj Sharma S/o Shri Govind Sharan Sharma, Aged About 38 Years, Resident Of Iii E 196, J.n.v. Colony, Behind Vivekanand School, Bikaner.

Dr. Jitendra Acharya S/o Shri Ramesh Kumar Acharya, Aged About 39 Years, Resident Of Polsa Ki Gali, Acharyon Ki Chowk, Bikaner

Dr. Lalit Kumar Sharma S/o Shri Dharam Veer Prasad Sharma, Aged About 36 Years, Resident Of Near Ison Tower, 186, Adarsh Nagar, Pali

Dr. Mahesh Kumar Gupta S/o Shri Prahlad Lal Agrawal, Aged About 39 Years, Resident Of Babu Nagar Extension, Pali

5. Dr. Balveer Choudhary S/o Shri Duda Ram Choudhary, Aged About 36 Years, Resident Of 128 Shree Ram Nagar, Near Rto, Bjs Colony, Jodhpur

6. Dr. Jaikishan Khatri S/o Shri Mohan Lal Khatri, Aged About 36 Years, Resident Of A-26, Asha Villa, Near Surana Nursing Home, Shastri Nagar, Bikaner

7. Dr. Rajendra Kumar Garg S/o Shri Kishan Ram Garg, Aged About 34 Years, Resident Of Chc Balesar, Jodhpur

8. Dr. Hemant Kumar S/o Shri Deendayal, Aged About 34 Years, Resident Of Sangaria, Hanumangarh

9. Dr. Brijmohan Meena S/o Shri Jagdish Prasad, Aged About 31 Years, Resident Of Bjs Colony, Jodhpur

10. Dr. Nahar Singh Choudhary S/o Shri Girdhari Lal Choudhary, Aged About 32 Years, Resident Of Resident Doctor Hostel, Bangur Hospital Campus, Pali

11. Dr. Raj Kumar Nirban S/o Shri Bhim Raj Nirban, Aged About 39 Years, Resident Of Sadulganj, Bikaner

12. Dr. Sunil Kumar Budania S/o Shri Mohan Singh Budania, Aged About 43 Years, Resident Of B-60, Karni Nagar, Pawan Puri, Behind Reliance Fresh, Bikaner

----Petitioners





Versus

1. State Of Rajasthan, Through Secretary, Department Of Medical Education, Govt. Of Rajasthan, Jaipur
2. The Director, Raj-Mes, Department Of Medical Education, Govt. Of Rajasthan, Jaipur
3. Rajasthan Public Service Commission, Through The Chairman, Jaipur Road, Ghooghara Ghati, Ajmer

----Respondents



**(3) S.B. Civil Writ Petition No.7073/2020**

Dr. Khushant S/o Shri Lal Chand, aged about 37 years, R/o 61-M Block, Ward No.17, Ravi Dass Gurudwara Ke Pass, Padampur, Sri Ganganagar, District Sri Ganganagar.

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Medical Education, Government Of Rajasthan, Secretariat, Jaipur.
2. The Director, Medical Education Department, Directorate of Medical Education, Chikitsa Shiksha Bhawan, Govind Marg, Jaipur.
3. Additional Director (Administration), Medical Education Department, Directorate Of Medical Education, Chikitsa Shiksha Bhawan, Govind Marg, Jaipur.
4. The Principal And Controller, Dr. Sampurnanand Medical College and Associated Group of Hospitals, Jodhpur, District Jodhpur, Rajasthan.
5. The Rajasthan Public Service Commission, Ajmer, Through Its Secretary.

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For Petitioner(s) : Mr. Yash Pal Khileree  
Mr. D. S. Beniwal  
Mr. Vinay Jain  
Mr. Kailash Jangid

For Respondent(s) : Mr. Manish Vyas, AAG assisted by  
Mr. Kailash Choudhary  
Mr. Rakesh Arora for RPSC

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## JUSTICE DINESH MEHTA

### Judgment

**10/08/2020**

1. By way of the present writ petitions, the petitioners, who are 18 in numbers in all, have prayed that ensuing examination for the post of Assistant Professor and Senior Demonstrator advertised vide notification dated 17.01.2020 be stayed or postponed.

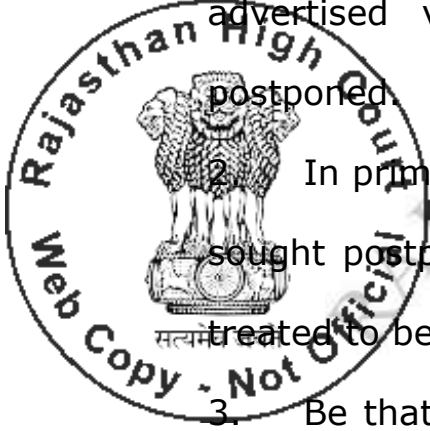
2. In prima facie opinion of this Court since the petitioners have sought postponement of the examination, the matters cannot be treated to be service matters.

3. Be that as it may, looking to the fact that examinations are going to be held tomorrow i.e. 11.08.2020, learned counsel for the parties requested the Court to decide these writ petitions, particularly because on earlier occasion a Coordinate Bench considering service matters had heard the petitions.

4. The facts in brief are that the respondent – RPSC issued an advertisement dated 17.01.2020 and invited applications for the post of Assistant Professor and Senior Demonstrator in various subjects. The advertisement contemplated a screening test to be conducted, however, the date of the test was not notified.

5. On 23.06.2020, the respondent – Commission issued examination programme, vide a press, which contained a note contained a note that the date of examination can be varied having regard to the Pandemic COVID – 19.

6. The petitioners were of the view that the date of examination will be postponed in view of the increasing number of COVID patients.





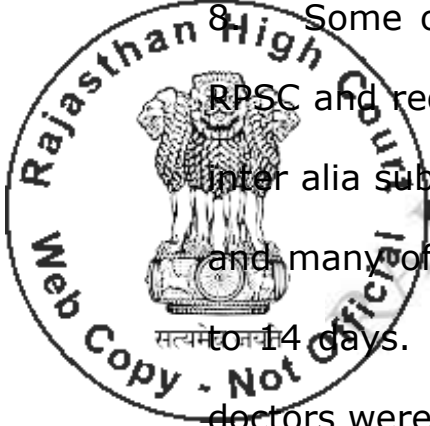
7. The date of examination was, however, not rescheduled/postponed and on 23.07.2020 the respondent - Commission released a press note whereby it was reiterated that the examination for Assistant Professor will be held on 11.08.2020, 13.08.2020 and 14.08.2020 and examination for Senior Demonstrator will be held on 13.09.2020 and 14.09.2020.

8. Some of the doctors have filed a representation before the RPSC and requested the Commission to postpone the examination inter alia submitting that they have been performing COVID duties and many of them have remained quarantined for a period of 07 to 14 days. It was also submitted in the representation that the doctors were not in a position to prepare for the examinations.

9. Learned counsel for the petitioners invited Court's attention towards the predicament of the petitioners and submitted that most of the doctors vying for the post of Assistant Professor are performing their duties in Government Hospitals, and that too in COVID Wards.

10. It was also stated that amidst spread of pandemic, the petitioners and all other doctors have been working tirelessly and they were not even permitted to avail their gazetted and weekly holidays. It was asserted that as per the guidelines, doctors were required to remain quarantined periodically, as such they were neither physically nor mentally prepared for the examination.

11. Learned counsel for the petitioners argued that firstly the respondents have not held recruitment for years together and notwithstanding the prevailing circumstances, they are adamant to hold examination. Learned counsel argued that it was required of the State/RPSC to postpone the examination so that not only





the petitioners' interest would be safeguarded even public health would be better taken care of.

12. Learned counsel for the petitioners highlighted that in all, 7000 doctors are likely to appear in the examination, scheduled to be held in Ajmer.

13. A grievance was raised that on the one hand, the examinations are commencing from 11.08.2020 and on the other, the State has kept an embargo on sanction of leave. Hence, it will be very difficult for them to appear in the forthcoming examination. They showed concern that if all the doctors take leave to appear in the examination, the entire health infrastructure will crumble wreaking havoc upon the COVID patients, who are in dire need of proper medical care.

14. Learned counsel submitted that there is no eminent urgency for conducting the examination for the post of Assistant Professor and Senior Demonstrator and thus, a direction be issued to the respondent - State to postpone the examination till the situation improves.

15. Learned counsel for the petitioners submitted that many of the doctors have been working in COVID Centers and if they appear in the examination, they are likely to pose threat to other candidates appearing in the examination.

16. While pointing out that the respondent - Commission has kept the center only at Ajmer, it was argued that petitioners and other candidates, who hail from different parts (some of them from outside State), will find it difficult to reach and stay at Ajmer for the purpose of examination.

17. Mr. Manish Vyas, learned Additional Advocate General, appearing for the respondent - State submitted that all the





preparation have been made and requisite precautions would be taken so as to ensure conducting the examination in healthy atmosphere; all guidelines issued by the Central Government or State Government will be followed; petitioners' apprehension is, absolutely, misplaced.

18. Inviting Court's attention towards the recent guidelines issued by the Central Government, he submitted that doctors discharging their duties in COVID wards are not required to observe 07 days quarantine, as was required earlier.

19. Mr. Rakesh Arora, learned counsel appearing for the respondent - RPSC, submitted that all arrangements have been made for the examination scheduled to be commenced on 11.08.2020 and if any indulgence, at this juncture, is granted. The arrangements made by the Commission would be rendered futile; it would lead to administrative difficulties apart from financial implications.

20. Mr. Arora invited Court's attention towards the order dated 31.07.2020, passed by the Co-ordinate Bench of this Court in S.B. Civil Writ Petition No.5742/2020, wherein in almost similar circumstances, the Co-ordinate Bench has refused to interfere while observing thus: सत्यमेव जयते

*"I have considered the submissions made by learned counsel for the parties and have perused the material available on record.*

*The facts are not in dispute, wherein, the screening test was initially scheduled on 29.4.2020 at Ajmer Headquarters only and on account of outbreak of COVID-19 pandemic, the screening test was postponed by order dated 23.6.2020 and have now been fixed on 2.8.2020.*



The present petition has been filed on 21.7.2020 without indicating as to what prevented the petitioners from approaching this Court earlier. Irrespective of the said aspect of the candidates approaching this Court with unexplained delay, the response filed by the RPSC clearly brings out the fact that the RPSC is well alive to the fact situation, wherein it is holding the screening test in the prevailing circumstances and, therefore, it has rightly spread the examination centers from one to seven all across the State, resulting in, the candidates requiring to travel the minimum.



The indication made in Annex.R/2 directing the Collectors to ensure that not more than 16 candidates are accommodated in one room takes care of apparently all the apprehensions expressed by the petitioners of likelihood of infection spreading on account of holding of the screening test by the RPSC for the post of Veterinary Officer.

In view of the above fact situation, wherein, the respondents have taken adequate measures to ensure that the candidates are not inconvenienced on account of holding of the screening test, apparently, it cannot be said that the respondent – RPSC has acted in an arbitrary manner in fixing 2.8.2020 as the date for screening test. Insofar as, the plea regarding the status of the pandemic is concerned, despite the fact that the number of patients have increased/are increasing, it is a fact that both Central and State Governments are going ahead with the unlock and requisite safeguards have been prescribed for ensuring that the life returns to normal.

In view thereof, no case for interference in holding of screening test on 2.8.2020 is made out. The writ petition is therefore, dismissed. However, the RPSC is directed to ensure that adequate safeguards as provided in their communications are followed and that any other measures are deemed appropriate may also be taken to safeguard the participating candidates from the pandemic.”





21. Laying emphasis on the observations so made by the Coordinate Bench, Mr. Arora argued that the schedule of examination was notified on 23.06.2020, whereafter on 23.07.2020, a detailed programme of examination was notified. If petitioners were so concerned, they ought to have approached this Court at the earliest available point whereas the present petitions have been filed on 04.08.2020. He argued that petitions suffer from delay and laches.

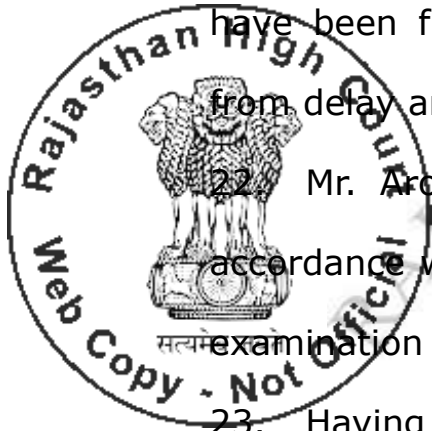
22. Mr. Arora, re-assured the Court that all arrangements, in accordance with the guidelines, have been made and the ensuing examination will be conducted with utmost care and caution.

23. Having heard learned counsel for the parties, this Court is not inclined to interfere in the present matters. The reasons are not far to seek.

24. The dates of examinations were notified on 23.06.2020 and the same was reiterated on 23.07.2020. The note appended in the notification dated 23.06.2020 that the examination can be rescheduled having regard to COVID situation, cannot be read to mean that the date of examination was not final.

25. Be that as it may. On 23.07.2020, the petitioners were aware that the examinations are going to be held on 11.08.2020 and, as such, their approaching the Court on 04.08.2020, cannot be condoned or countenanced.

26. The examinations are scheduled on 11.08.2020. Any indulgence, in the eleventh hour, in considered opinion of this Court, would not only lead to administrative difficulties and huge financial implications, but will also adversely affect the sentiments of all other candidates, who are in the mode of or are all set to appear in the examination, scheduled tomorrow.





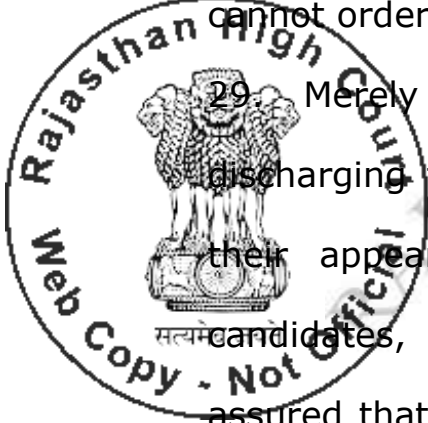
27. In the opinion of this Court, at the instance of 18 petitioners, the fate of other seven thousand aspirants, who are not before this Court, cannot be put in a state of limbo.

28. That apart, whether to hold or not to hold examination is purely in the domain of employer and recruiting agency. This Court, in its extraordinary jurisdiction, in normal circumstances, cannot order to postpone or cancel the examination.

29. Merely because the petitioners and other doctors have been discharging their duties in COVID wards, it cannot be said that their appearance in examination would cause risk to other candidates, particularly when the respondent - Commission has assured that requisite arrangements have been made in terms of the guidelines issued by the Central Government and the State Government.

30. In view of the aforesaid, while refusing to interfere, so far as the date of examination is concerned, the following directions, which deem expedient are being issued :

- (i) All candidates, having admit cards, including the doctors, who have been assigned COVID duties will be permitted to appear in the examination.
- (ii) After appearing in the examination, the doctors will apply for leave before the competent authority, along with requisite proof of appearing. The competent authority will sanction their leave, after being satisfied that the concerned doctor had appeared in the contentious examination.
- (iii) No action, including any disciplinary action shall be taken against the petitioners or any other doctors (who had appeared in the examination) for want of sanctioned leave.





(iv) Even if, a candidate is under quarantine or is COVID infected he/she shall be permitted to appear in the ensuing examination. However, all the COVID patients will be seated in a separate hall. No COVID infected doctor/candidate will be asked to sit with the other candidates.

(v) It is further ordered that even if a candidate is living/residing in containment zone, he shall be permitted to undertake travel for the purpose of examination in question. They shall not require any travel pass or order of the competent authority and merely on production of admit card, the concerned authority shall permit him/her to undertake journey to the examination Center at Ajmer.



31. The writ petitions as well as stay applications and interim applications are disposed of.

**(DINESH MEHTA),J**

142-A.Arora/-

