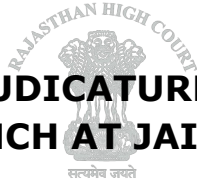




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 13913/2021

Smt. Vidya Devi W/o Ram Charan Yadav, aged about 60 Years, Ex-Forth Class Employee, Badhir Vidyalay Girls Hostel, Ajmer R/o House No. 192, Panchsheel Nagar, Ganesh Guvadi, Ajmer.

-----Petitioner

Versus

1. State of Rajasthan, through the Commissioner Elementary Education, Govt. of Rajasthan, Bikaner.
2. District Education Officer, Elementary Education, Ajmer.
3. Principal Secretary, Elementary and Secondary Education, Govt. of Rajasthan, Secretariat, Jaipur 302005
4. Badhir Bal Vikas Samiti, (registered society under the Rajasthan Societies Registration Act) through its Secretary, Vaishali Nagar, Ajmer.
5. Managing Committee, Badhir Vidyalay, Vaishali Nagar, Ajmer Through Its Secretary.

-----Respondents

Connected With

S.B. Civil Writ Petition No. 9999/2020

Om Prakash Sharma S/o Jeewan Lal Sharma, Ex-Teacher, Badhir Vidyalay, Ajmer R/o 433/b-48, Vinayak Nagar, St. Stephens School, Panchsheel "C" Ajmer

-----Petitioner

Versus

1. State of Rajasthan, through the Commissioner Elementary Education, Govt. of Rajasthan, Bikaner
2. District Education Officer, Elementary Education, Ajmer
3. Principal Secretary, Elementary and Secondary Education, Govt. of Rajasthan, Secretariat Jaipur 302005
4. Badhit Bal Vikaas Samiti, (registered society under the Rajasthan Societies Registration Act) through its





Secretary

5. Managing Committee, Badhir Vidyalay, Vaishali Nagar,
Ajmer Through Its Secretary

-----Respondents

S.B. Civil Writ Petition No. 17552/2022

Shri Shiv Shankar, Aged About 99 Years, Ex- Teacher, Badhir
Vidyalay, Ajmer R/o 157 A, 2nd, Sunder Nagar, Kotda, Ajmer
305004

-----Petitioner

Versus

1. State of Rajasthan, through the Commissioner
Elementary Education, Govt. of Rajasthan, Bikaner.
2. District Educaiton Officer, Elementary Education
Ajmer.
3. Principal Secretary, Elementary And Secondary
Education, Govt. of Rajasthan, Secretariat, Jaipur
302005
4. Badhit Bal Vikas Samiti, (registered society under the
Rajasthan Societies Registration Act) through its
Secretary.
5. Managing Committee, Badhir Vidyalay, Vaishali Nagar,
Ajmer Through Its Secretary.

-----Respondents

For Petitioner(s)	: Mr. Harshad Kapoor
For Respondent(s)	: Mr. Rajat Ranjan Mr. Saumil Sharma for Mr. G.K. Sharma, AGC Ms. Anjum Praveen Salawat for Ms. Namita Parihar, Dy.GC

JUSTICE ANOOP KUMAR DHAND

Order

20/03/2025

Reportable

1. Since, common question of law and facts are involved in
these petitions, hence, with the consent of counsel for the





parties, arguments are heard together and all these writ petitions are being disposed of by this common order

2. For the sake of convenience, the facts and prayer pleaded in S.B. Civil Writ Petition No.13913/2021 is taken into consideration.

3. The instant writ petition has been preferred with the following prayer:

"It is, therefore, humbly prayed that your Lordships may very graciously be pleased to accept and allow this writ petition and through appropriate writ, order or direction:-

i) Direct the respondents to make payment of Rs.3,44,064/- in respect of leave encashment of 252 privilege leaves outstanding in the account of the petitioner.

ii) Direct the respondents to make payment of interest @ 9% per annum on the aforesaid amount from the date of retirement till the date of actual payment.

iii) Any other relief, which the Hon'le Court may deem fit in the favor of the humble petitioners, may also be given to the humble petitioners.

iv) Cost of the writ petition may also be granted."

4. By way of filing the instant writ petition, a prayer has been made for issuing directions to the respondents to make payment of leave encashment of the Privilege Leaves (for short 'PL') outstanding in the account of the petitioners with interest at the rate of 9% per annum.

5. Learned counsel for the petitioners submits that the petitioners were the employees of Badhit Bal Vikas Samiti, a 100% aided institution. Their services were absorbed by the State, in the year 2013, after enforcement of the **Rajasthan Voluntary Rural Education Service Rules, 2010 (for short 'Rule of 2010')**. Counsel submits that after absorption of their service by the State, they continued to work with the





State-department, till their retirement. Counsel submits that all the petitioners stood retired but the State is not releasing the amount of due leave encashment of the Privilege Leave to the petitioner. Counsel submits that prior to the retirement of the petitioners, they approached the District Education Officer vide order dated 16.12.2014 who directed the Managing Committee of Badhit Bal Vikas Samiti to make payment of the aforesaid amount payable to the petitioners. Counsel submits that the aforesaid order, passed by the District Education Officer (for short 'DEO') was assailed by the Managing Committee of Badhit Bal Vikas Samiti before this Court by way of filing S.B. Civil Writ Petition No.10995/2015, wherein, the State has made a categorical statement before this Court that the leave encashment amount would be paid to the petitioner directly in the Executing Court, in case, the employee retires from the State service. Counsel submits that after taking into account, the aforesaid statement made on behalf of the State, a specific direction was issued to the State Government to pay the leave encashment amount to the employees who are in service of the Management and have retired from the service. Counsel submits that the aforesaid order was passed by this Court way-back in the year 2015 and the petitioners have retired from their services in the years 2020, 2021 & 2022 respectively. Counsel submits that inspite of passing of considerable time, till date, the aforesaid due amount has not been paid by the State authorities, hence, under these circumstances, appropriate directions be issued to the State-department to make the



payment of leave encashment with interest at the rate of 9% per annum.

6. Per contra, learned counsel for the respondent-State opposed the prayer and submitted that the petitioners were employees of the Management Committee of Badhit Bal Vikas Samiti and their services were absorbed by the State in the year 2013, after enforcement of the Rule of 2010. Hence, under these circumstances, the Management is liable to pay the amount of due leave encashment of Privilege Leave to the petitioner and the State has no liability to pay the same.

7. Learned counsel for the respondent appearing on behalf of the Managing Committee of Badhit Bal Vikas Samiti submitted that the said institution is 100% aided institution and is not a profit making organization. Hence, under these circumstances, it is the State who is liable to make the payment of due amount to the petitioners. Counsel for the respondent reiterated that in the Writ Petition Bearing No.10995/2015, submitted by the Management before this Court, a clear and specific direction has been issued by this Court via order dated 06.10.2015 to the State for making payment in this regard.

8. Heard and considered the submissions made at Bar and perused the material available on record.

9. Perusal of the record indicates that the petitioners were initially appointed at Badhit Bal Vikas Samiti on different posts, after enforcement of the Rules of 2010 their services were absorbed by the State-department and thereafter, they remained in State service till their retirement. When the due





encashment amount was not paid to them, they approached the District Education Officer (for short 'DEO') for redressal of their grievance and pass appropriate orders in their favour but vide order dated 16.12.2014 the DEO issued directions in this regard i.e. to reject the claim for the payment of due leave encashment amount to the petitioner. The aforesaid order dated 16.12.2014 was assailed by the Managing Committee of Badhit Bal Vikas Samiti before this Court by way of filing S.B. Civil Writ Petition No.10995/2015, wherein the following specific statement was made by the Additional Advocate General appearing on behalf of the respondent-State which is reproduced as under:

" Learned Additional Advocate General appearing for the respondents has further contended that so far as leave encashment payable to Smt. Vidhya Devi, Ex. Class-IV Employee is concerned, same shall be paid to the employee directly in the Executing Court only in case, he has retired from the service. It is submitted that leave encashment is payable to the employee only when he retires that too, at eve of retirement."

10. On the basis of the aforesaid statement made on behalf of the respondent-State, this Court disposed of the aforesaid writ petition vide order dated 06.10.2015 with the following clear and specific directions, which read as under:

"In view of statement made by Mr. S.K. Gupta, the learned Additional Advocate General appearing for the respondents, which has been noted herein above, the present writ petition is, hereby, disposed of by issuing following directions:

- a) That the gratuity to respondent No.1 Smt. Vidhya Devi, Ex. Class-IV Employee of the petitioner/School shall be paid by the Managing Committee of Badhir Vidhalaya. The arrears of selection grade and arrears of 6th Pay Commission shall be paid by the State Government to the employee before the Executing Court i.e. Sub Divisional Officer, Ajmer.



b) That the amount paid by the State Government to the employees shall be deducted from the outstanding grant-in-aid amount due to the management.

c) That the leave encashment will be paid by the State Government to only those employees, who have retired and in case, employees have left services of the management, no leave encashment shall be paid and, qua this entitlement employees will be at liberty to agitate their claim in accordance with the provisions of law.

d) That the amount shall be paid by the State Government in the Executing Court within a period of four months from today. The amount shall be paid in the form of cheque and shall be presented before the Executing Court on 06.01.2016. On that day, employee shall remain present in person before the Executing Court and the amount shall be disbursed to the employee.

e) That the Executing Court shall keep execution proceedings in abeyance till 06.01.2016.

f) That the amount of gratuity shall be paid by the Managing Committee also on 06.01.2016."

11. It appears that after passing of the aforesaid order, the petitioners continued in the State service and retired after attaining the age of superannuation in the years 2020, 2021 & 2022. It is quite shocking and surprising that inspite of passing of considerable time, the State has not complied with the order dated 06.10.2015 passed by this Court and there is no justification for the same on the part of the State which amounts to an act of committing contempt of the order of this Court.

12. This Court is constrained to observe that the instant case is a classic and glaring textbook example of obstination exhibited by the State officials, who consider themselves to be above and beyond the reach of law. Non-compliance of the order dated 06.10.2015, even after a lapse of almost a decade is shocking and prima facie contemptuous. The petitioners have been harassed by the respondents for no





fault of theirs. Inaction on the part of the respondents in complying with the order dated 06.10.2015, inspite of the passing of almost 10 years, warrants strict disciplinary action against them.



13. Contempt of the Court's order is a serious legal infraction that strikes at the very sole of justice and sanctity of legal proceedings. When a party engages in contempt, it does more than simply refusing to comply the Court's order. By failing to adhere to judicial directions, a contemnor not only disrespects the specific order but also directly questions the Court's ability to uphold the rule of law. It erodes the public confidence in the judicial system and its ability to deliver justice impartially and effectively.

14. The Courts ordinarily take a lenient approach in cases of some delay caused in compliance of the orders, unless the same is deliberate and willful, on confronting the conduct of the contemnor that strikes the very heart of judicial authority. But the lenient approach of the Court should not be taken lightly and casually by the State instrumentalities. In the eventuality of the order passed by this Court is not complied with now, this Court would be constrained to pass appropriate orders, at an appropriate stage.

15. Before taking any action against the State authorities, this Court deems it just and proper to dispose of the instant writ petition with a direction to the State to make the payment of leave encashment, as per the salary received by the petitioners at the time of their retirement and pay the due amount of unpaid leave encashment, towards their PL



with interest at the rate of 9% per annum forthwith without any further delay, in terms of the order dated 06.10.2015 passed by this Court.

16. Needless to observe, the State authorities would comply with the order passed by this Court, within a period of three months from the date of receipt of certified copy of this order.

17. With the aforesaid directions, the instant writ petition stands disposed of. All pending application(s) (if any), also stand disposed of. Before parting with this order, it is made clear that in case, the State authorities fails to comply with the order passed by this Court, the action of the State would be viewed seriously and appropriate orders would be passed directing the respondent-authorities for taking disciplinary actions against the Defaulting Officers.

18. List on 02.07.2025 to see the compliance of this order and for passing appropriate orders.

(ANOOP KUMAR DHAND),J

Garima/31-33