



HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Civil Writ Petition No. 1905/2025

Sulochana W/o Vikas Jhajhara, Aged About 33 Years, Teliyon Ka Mohalla, Ramgarh (Rural), District Sikar (Rajasthan).

-----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Medical And Health, Secretariat, Jaipur, Rajasthan.
2. Director, Medical And Health Services, Tilak Marg, Jaipur, Rajasthan.
3. Chief Medical And Health Officer, District Jodhpur, Rajasthan.
4. The Superintendent, Mathuradas Mathur Hospital, Jodhpur, Rajasthan.
5. Draupadi, Nursing Officer, Mathuradas Mathur Hospital, Jodhpur, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Manish Patel.

For Respondent(s) : Mr. Mukesh Dave.

HON'BLE MR. JUSTICE ARUN MONGA

Order(Oral)

28/01/2025

1. It was only the other day that this court faced a strikingly similar dilemma. And now, yet again, another expectant mother—eight months into her pregnancy—is forced to seek judicial intervention, a consequence of the state's sheer apathy and callous disregard for basic human dignity. She stands before this court, not by choice but by necessity, challenging the order dated 15.01.2025, which cruelly uproots her from Sub District Hospital, Fatehpur, District Sikar, and compels her to endure a grueling transfer to Mathuradas Mathur Hospital, Jodhpur—a staggering 320 km away.



2. The petitioner, serving as a Nursing Officer, is at the mercy of an unfeeling bureaucracy, inter alia, averring blatant violation of Rule 8 of the Rajasthan Panchayat Raj (Transferred Activities) Rules, 2011 to assail her the transfer order. An order, that callously disregards her advanced pregnancy and fragile medical condition, as already noted. Whether this vindictiveness she is being meted out with, stems from a mindless, mechanical application of authority, a complete absence of reason, or the sheer arrogance of unchecked power is not clear. What is clear, however, is the indifference with which her rights and well-being have been trampled.

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

4. Learned counsel for the petitioner argues that transfer contravenes Rule 8 of the Rajasthan Panchayat Raj (Transferred Activities) Rules, 2011, which stipulates that transfers of officials of Panchayati Raj institutions fall within the jurisdiction of Panchayati Raj department, not the Medical & Health Department. He further contends that the petitioner, who is at the stage of her pregnancy, cannot be transferred at this juncture due to her medical condition.

5. Per contra learned counsel for respondent argues that transfer is an integral part of service conditions of a government employee and the same arise out of the administrative exigencies. Therefore, no indulgence is warranted by this Court.

6. At the outset, reference may be had to a judgment rendered last week by this very bench Court in *Jyoti Parmar Vs State Institute Of Health And Family Welfare & Ors.: S.B. Civil Writ*



Petition No. 1422/2025 (decided on 23.01.2025). Relevant thereof, being apposite, is reproduced hereinbelow:-

“1. Standing at crossroads, torn between her role of motherhood and breadwinner, the petitioner seeks indulgence herein to help her save her livelihood. Her inability to join duty within the stipulated time, owing to the advanced stage of her pregnancy (third trimester), has compelled her to approach this Court. She, inter alia, seeks an extension of her joining date to safeguard both her career and her family's future. Respondents have since declined to do the needful, she now faces the risk of losing her hard-earned job, despite successfully competing against thousands of candidates nationwide to secure the position of Nursing Officer.

2 to 5. xxx xxx xxx

6. Given the peculiar factual narrative in the petition, duly supported with affidavit, it so appears to me that the extenuating circumstances of the petitioner have been given complete short shrift by directing her to join services on or before 24.01.2025 at a place 500 kms. away from where she resides. Same is nothing but reflective of lack of empathy and compassion on the part of respondents and is highly arbitrary and mechanical exercise or non-exercise of mind, as the case may be.

7. State is not only supposed to act as a model employer, but also as a virtuous litigant. Whereas, in the instant case, the approach adopted by the respondents instead is rather obstructive and oppressive in nature and a complete misuse of dominant status as an employer, apart from abuse of power, to say the least.

8. xxx xxx xxx

9. I am of the view that, by imposing such unreasonable conditions that threaten her employment if she is unable to comply due to legitimate personal and medical reasons, it infringes on petitioner's Right to Livelihood enshrined under Article 21 of the Constitution.”

7. Notwithstanding, the petitioner herein has been meted out with similar treatment as Jyoti Parmar, supra.

8. For the education of the respondents, relevant extract of section 4(3) of the Maternity Benefit Act, 1961, is reproduced as below:-

“4. Employment of or work by, women prohibited during certain periods.-

(1) & (2).xxx xxx xxx

(3) Without prejudice to the provisions of section 6, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period specified in sub-section (4) any work which is of an arduous nature or which



involves long hours of standing, or which in any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.”

(emphasis supplied)

A bare reading of the above reveals that specific provision has been enacted by law makers to protect the health and well-being of pregnant women in the workplace. An employer is duty bound to ensure that safety and the health of the mother to be and the unborn child are not compromised. Maternal health has been given statutory protection by prohibiting work that may interfere with pregnancy or fetal development. Employers cannot thus force a pregnant woman to perform tasks that pose a risk to her or her baby. Pregnant lady, in a way, has the right to refuse work without fear of discrimination or retaliation, provided same is found to be unsafe either for her or her infant/foetus. In fact, non-compliance by employers may result in adverse consequences qua them, in accordance with law.

9. Respondent/State i.e. respondent No.1 is directed to sensitize its competent officers/head of departments who are empowered to pass transfer orders. For doing the needful, respondent No.1 (i.e. the Secretary, Health) shall immediately send copy of the instant order to the Chief Secretary of the State, who in turn shall ensure its due circulation to all concerned officers through email for their future awareness and compliance thereof.

10. Reverting to the case in hand, if the petitioner, is to comply with the transfer order impugned herein, she will have to necessarily relocate from the current place of posting, apart from compelling her to change her entire set of attending physicians (Obstetrician or the Gynaecologist as the case may be). As, it is



impossible to commute 300 kms one way to be with her family, whose constant care and attention is required at this advance stage of maternity. Not only that, travel would also necessarily entail health hazards for both mother as well as the infant, be it pre-natal or post-natal. Furthermore, to expect that her entire family can forthwith make arrangements to shift along with her is rather unreasonable, unfair and unjust, to say the least.

11. In the premise, the respondents are directed to either retain her on her current posting or reassign an alternative place of posting anywhere in District Sikar, within reasonable distance from current place of posting to obviate a situation, which is, to quote the statutory language-" likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health so as to enable her to discharge her duties without being fearful of losing her livelihood. Needful exercise be carried out within a period of 30 days from the date of receipt of web-print of this order.

12. Till a decision as aforesaid is taken, petitioner shall be allowed to discharge her duties at her current place of posting.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA),J

103-/Jitender/Sumit

Whether fit for reporting : Yes / No.