



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

D.B. Spl. Appl. Writ No. 824/2024

Shrawan S/o Shri Prabhu, Aged About 26 Years, R/o Ward No. 07, V/p Jorawarpura, Tehsil And District- Hanumangarh, Rajasthan.

----Appellant

Versus

1. State Of Rajasthan, Through The Director, Department Of Local Self Govt., Govt. Of Rajasthan, Jaipur.
2. The Municipality, Rawatsar Through Its Executive Officer, District- Hanumangarh, Rajasthan.

----Respondents

For Appellant(s) : Mr. Durgesh Khatri  
Mr. Saurabh Soni

For Respondent(s) : Mr. Rajesh Parihar, AGC  
Mr. Ayush Gehlot

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI  
HON'BLE MR. JUSTICE SANDEEP SHAH**

**Order**

**Reportable**

**08/01/2026**

1. The present special appeal has been instituted by the appellant assailing the order dated 23.04.2024 passed by the learned Single Bench in *Shrawan v. State of Rajasthan & Anr.*, S.B. Civil Writ Petition No. 15275/2018, whereby the writ petition preferred by the appellant was dismissed.

2. Learned counsel for the appellant contends that the appellant was duly selected and appointed to the post of Safai Karamchari in Nagar Palika, Rawatsar, District Hanumangarh, under the category of persons with disabilities, the appellant being a person suffering from 70% permanent dwarfism, and was accordingly issued an



appointment order dated 14.07.2018. It is further submitted that subsequent to the said appointment, upon verification of antecedents through the police authorities, it transpired that four criminal cases were pending against the appellant, of which he had been convicted in three cases and acquitted in one. On the basis of the said police verification report, the respondents terminated the services of the appellant vide order dated 24.08.2018, primarily on the ground of the criminal cases pending against him.

3. Learned counsel for the appellant advanced four-fold submissions. Firstly, it was contended that at the time of commission of the offences in question, the appellant was a juvenile. Secondly, it was submitted that all the three cases in which the appellant was convicted were under the provisions of the Rajasthan Public Gambling Ordinance, 1949, which pertain to trivial and petty offences. Thirdly, learned counsel placed reliance upon the law laid down by the Hon'ble Supreme Court in ***Avtar Singh v. Union of India & Ors. (2016) 8 SCC 471***, to contend that suppression of involvement in trivial offences does not, by itself, warrant automatic rejection of candidature and that, having regard to the nature of the post in question, the employer may, in its discretion, choose to ignore such suppression. Fourthly, it was urged that the record of the criminal cases, which the appellant now seeks to place before this Hon'ble Court, is no longer available, having been weeded out, and that such circumstance further supports the appellant's assertion that he was a juvenile at the time when the offences were alleged to have been committed.





4. *Per contra*, learned counsel for the respondents, opposed the submissions advanced on behalf of the appellant and contended that the discretion vested in the employer, particularly in a case where material facts relating to the appellant's criminal antecedents were concealed, constitutes a valid and sufficient ground for disqualifying and terminating the candidature of the appellant. It was further submitted that the appellant's appointment itself was expressly made subject to satisfactory police verification, and upon receipt of the adverse verification report, the employer was fully justified in exercising its discretion to terminate the appellant's services. Learned counsel asserted that such discretion has been exercised in a fair, lawful and proper manner.

5. This Court, after hearing learned counsel for the parties and upon careful perusal of the law laid down in ***Avtar Singh (supra)***, particularly paragraph 38 thereof, finds that a discretion was indeed available with the respondents, which could have been exercised even to the extent of ignoring the suppression of facts and condoning the lapse. This Hon'ble Court is fully conscious of the position that the said aspect remains unrefuted on record.

Para 38 of the ***Avtar Singh (supra)*** reads as follow:

*"38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize our conclusion thus:*

*38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.*

*38.2. While passing order of termination of services or cancellation of candidature for giving false information, the*





employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted: -

38.4.1. **In a case trivial in nature in which conviction had been recorded**, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, **the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.**

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse





*impact and the appointing authority would take decision after considering the seriousness of the crime.*

*38.9. In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.*

*38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.*

*38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him."*

6. This Court takes note of the undisputed position that out of the four criminal cases reflected in the police verification report, the appellant stood convicted in three cases under Section 13 of the Rajasthan Public Gambling Ordinance, 1949, while in the fourth case, relating to offences under Sections 16 and 54 of the Rajasthan Excise Act, 1950, he was acquitted. At the same time, it remains uncontroverted that the appellant was a minor at the time when all the aforesaid offences were alleged to have been committed. Having regard to these circumstances, and keeping in view the nature of the post in question, namely that of a Sweeper, this Court is of the considered view that the appellant deserves protection against the consequences of the alleged concealment and lapse. Such protection flows from the beneficial scheme of the juvenile justice legislation, particularly Sections 19(1) and 19(2) of the Juvenile Justice (Care and Protection of Children) Act, 2000, which embody the legislative intent to permit condonation of





culpability and to efface the adverse impact of acts committed during juvenility. Sections 19 of the Juvenile Justice (Care and Protection of Children) Act, 2000 reads as follows:

*"19. Removal of disqualification attaching to conviction*

*(1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.*

*(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be."*

7. The Police report furnished by the concerned police station reads as follows:

S. No.	FIR No./Year	Police Thana/District/State	Act Section	Present Status	Remark
1	384/2008	Hanumangarh Town/Hanumangarh/Rajasthan	13(RAJASTHAN PUBLIC GAMBLING ORDINANCE 1949)	Convicted	दति 26.03.2011 को सजा
2	733/2008	Hanumangarh Town/Hanumangarh/Rajasthan	13(RAJASTHAN PUBLIC GAMBLING ORDINANCE 1949)	Convicted	दति 27.11.2008 को सजा
3	85/2009	Hanumangarh Town/Hanumangarh/Rajasthan	13(RAJASTHAN PUBLIC GAMBLING ORDINANCE 1949)	Convicted	दति 26.02.2009 को सजा
4	438/2008	Hanumangarh Town/Hanumangarh/Rajasthan	16(RAJASTHAN EXCISE ACT 1950) 54(RAJASTHAN EXCISE ACT 1950)	Acquitted	दति 17.02.2010 को परविक्रिषा पर रहिा कथिा गया

8. In the light of the aforesaid discussion, and upon a cumulative consideration of all relevant factors, namely that the





appellant was a minor at the time of commission of the offences under the Rajasthan Public Gambling Ordinance and the Rajasthan Excise Act, the principles enunciated in *Avtar Singh* (supra), the fact that the criminal record has since been weeded out, and the nature of the post involved being that of a Sweeper, this Hon'ble Court is satisfied that both the appeal and the writ petition merit acceptance.

9. The special appeal is accordingly allowed. The order dated 23.04.2024 passed by the learned Single Bench along with the order of termination dated 24.08.2018 are quashed and set aside.

10. The appellant's appointment shall stand restored and continued.

11. The appellant shall be treated to be in continuous service, however, all the benefits accruing to the appellant shall be granted notionally for the time period he has not actually served the respondents.

**(SANDEEP SHAH),J**      **(DR.PUSHPENDRA SINGH BHATI),J**

40-Love/-