



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



D.B. Civil Special Appeal (Writ) No.1097/2025

In

S.B. Civil Writ Petition No.19328/2024

1. Rajasthan Housing Board, Through Its Secretary At Awas Bhawan, Janpath Nagar, Jaipur. 302005.
2. State Of Rajasthan, Through Principal Secretary, Urban Development Corporation At Food Building, Secretariat Jaipur-302005 (Rajasthan) India

----Appellants

Versus

Jaslok Yadav S/o Shri Hoshiyar Singh, Aged About 43 Years, R/o Plot No. 17, Ashok Vihar Colony, Shyam Dungri, Kunda, Amer, Jaipur.

----Respondent

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For Appellant(s) : Mr. Ajay Shukla  
Mr. Raghav Sharma

For Respondent(s) : Mr. Kunal Kant Rawat  
Ms. Aradhana Swami with  
Ms. Dhriti Sharma

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**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA  
HON'BLE MRS. JUSTICE SANGEETA SHARMA**

**Order**

**Reportable**

**11/02/2026**

1. The appeal challenges the order passed by the learned Single Judge whereby, the learned Single Judge has allowed the writ petition and directed to consider the candidature of the respondent-writ petitioner for the post of Legal Assistant (Junior Legal Officer).
2. Learned counsel appearing for the Housing Board submits that the learned Single Judge has erred in directing consideration



of the candidature of the writ petitioner who was not falling within the three times zone who were to be called for consideration. Learned counsel further submits that from the General category, one person did not join and therefore, a person from the open category alone can be called to fill that said post. However, the recruitment process is over and therefore, said post have to remain vacant and to be filled by the subsequent advertisement.

3. Learned counsel submits that another person, namely, Shri Dinesh Kumar had been called, but he belongs to OBC category and was also from Physically Handicapped (PH) category and therefore, although he was lesser meritorious than the writ petitioner, calling him could not have been objected. He has however candidly said that the concerned Shri Dinesh Kumar did not appear and therefore, the post of PH category could not be filled.

4. We have considered the submissions and find that the post of Legal Assistant (Junior Legal Officer) had been advertised on 19.07.2023 by the Housing Board wherein, posts were reserved for OBC and PH category candidates. Nine posts were advertised, but only 26 candidates were called for document verification. Learned Single Judge has also noted in the order in review that one candidate was shown both in the open category merit as well as in the OBC category. Resultantly, he was appointed against the open category. Learned counsel's contention that on account of one of the candidates placed in the open category having not joined only a person from general category can fill up the said post is misconceived.





5. In the case of **Saurav Yadav and Ors. Vs. State of Uttar Pradesh and Ors.: (2021) 4 SCC 542**, the Hon'ble Supreme

Court has held as under:

**"59.** *The features of vertical reservations are:*

**59.1.** *They cannot be filled by the open category, or categories of candidates other than those specified and have to be filled by candidates of the social category concerned only (SC/ST/OBC).*

**59.2.** *Mobility ('migration') from the reserved (specified category) to the unreserved (open category) slot is possible, based on meritorious performance.*

**59.3.** *In case of migration from reserved to open category, the vacancy in the reserved category should be filled by another person from the same specified category, lower in rank.*

**59.4.** *If the vacancies cannot be filled by the specified categories due to shortfall of candidates, the vacancies are to be 'carried forward' or dealt with appropriately by rules.*

**60.** *Horizontal reservations on the other hand, by their nature, are not inviolate pools or carved in stone. They are premised on their overlaps and are 'interlocking' reservations. As a sequel, they are to be calculated concurrently and along with the inviolate 'vertical' (or "social") reservation quotas, by application of the various steps laid out with clarity in para 21.3 of Lalit, J.'s judgment. They cannot be carried forward. The first rule that applies to filling horizontal reservation quotas is one of adjustment, i.e. examining whether on merit any of the horizontal categories are adjusted in the merit list in the open category, and then, in the quota for such horizontal category within the particular specified/social reservation.*

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**66.** *I would conclude by saying that reservations, both vertical and horizontal, are method of ensuring representation in public services. These are not to be seen as rigid "slots", where a candidate's merit, which otherwise entitles her to be shown in the open general category, is foreclosed, as the consequence would be, if the state's argument is accepted. Doing so, would result in a communal reservation, where each social category is confined within the extent of their reservation, thus negating merit. The open category is open to all, and the only condition for a candidate to be shown in it is merit, regardless of whether reservation benefit of either type is available to her or him."*

6. Having noted the law as above, it is apparent that candidates in the *inter se* merit shall be considered first for appointment in





the open category without looking into their respective caste/categories. After filling the open category list, the concerned reserved category candidates list shall be taken into consideration. Admittedly, in the OBC category, there are two posts lying vacant.

7. In view thereto, the writ petitioner-respondent would have a claim against the OBC category being the next in merit to the last candidate who has been appointed under the OBC category. The final directions issued by the learned Single Judge, therefore, cannot be said erroneous. The appeal is, therefore, accordingly dismissed.

8. All pending applications also stand disposed of.

(SANGEETA SHARMA),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

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