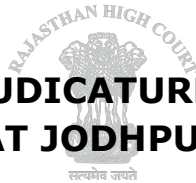




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



D.B. Special Appeal Writ No. 1035/2026
CNR: RJHC010873932026 | URN: SAW / 2166U / 2026

1. State Of Rajasthan, Through The Director, Elementary Education, Rajasthan, Bikaner.
2. District Education Officer, Elementary Education, District Jodhpur.

-----Appellants

Versus

1. The Rajasthan Non-Government Educational Institutions Tribunal, Jaipur.
2. Shri Lal Bahadur Shastri Educational Society, Through Its Secretary, Subhash Chowk, Ratanada, Jodhpur.
3. Munnalal Diwakar S/o Shri Krishnan Diwakar, R/o House No. 21, Bhaskar Chouraha, Ratanada, Jodhpur
4. The Additional Civil Judge, Junior Division No. 2, Jodhpur.

-----Respondents

For Appellant(s) : Mr. Rajesh Panwar, Sr.Adv. & AAG
assisted by Mr. Ayush Gehlot

**HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
Judgment**

17/09/2026

Reportable

1. The State of Rajasthan has preferred this appeal under Rule 134 of the Rajasthan High Court Rules, 1952 (hereinafter referred to as 'the Rules of 1952') questioning the legality, validity and correctness of the order dated 19.11.2025 passed by learned Single Judge, by which the writ petition filed by the State of Rajasthan has been dismissed.
2. When the matter is taken up for hearing, Mr. Rajesh Panwar, learned Additional Advocate General submits that the impugned



order passed by the learned Single Judge is absolutely illegal and liable to be quashed and set-aside.

3. We have heard learned counsel for the appellant and perused the material available on record.

4. In fact, the executing court passed a judicial order dated 20.04.2017 rejecting the objections raised by the State of Rajasthan, against which the writ petition was filed before learned Single Judge being ***S.B. Civil Writ Petition No.3781/2018 (State of Rajasthan & Anr. V/s. The Rajasthan Non-Government Educational Institutions Tribunal, Jaipur & Ors.)***, which came to be rejected. The Hon'ble Supreme Court in the case of ***Radhey Shyam & Anr. V/s Chhabi Nath & Ors.***, reported in ***AIR 2015 SC 3269*** has held as under :-

"25. Accordingly, we answer the question referred as follows :

"(i) Judicial orders of Civil Court are not amenable to writ jurisdiction under Article 226 of the Constitution;

(ii) Jurisdiction under Article 227 is distinct from jurisdiction under Article 226. Contrary view in Surya Dev Rai is over-ruled."

5. As such, in view of the aforesaid principle of law, Judicial orders of Civil Court are not amenable to writ jurisdiction under Article 226 of the Constitution.

6. Rule-134 (i) of the Rules of 1952 provides that an appeal shall lie to the High Court from the Judgment or a final order (not being a Judgment passed in the exercise of appellate Jurisdiction in respect of a decree or order made in the exercise of appellate Jurisdiction by a Court subject to the superintendence of the High Court and not being an order made in the exercise of revisional



Jurisdiction and not being a sentence or order passed or made in the exercise of the power of superintendence or in the exercise of criminal Jurisdiction) of one Judge of the High Court.

7. A bare perusal of the Rule 134 (i) of the Rules of 1952 shows that appeal would lie against the final order, not being a judgment passed by exercising the appellate jurisdiction irrespective of the decree or order made in the exercise of appellate Jurisdiction by a Court subject to the superintendence of the High Court. As such, the appeal under Rule 134 of the Rules of 1952 would not be maintainable against the judgment and order passed by the learned Single Judge, while exercising jurisdiction under Article 227 of the Constitution of India.

8. In view of the above, the present Special Appeal Writ would not be maintainable. Accordingly, the present special appeal is dismissed. However, this will not bar the State of Rajasthan to challenge the order dated 19.11.2025 in accordance with law.

9. All pending applications, if any, stand disposed of accordingly.

(VINIT KUMAR MATHUR),J

(SANJAY K. AGRAWAL),CJ

126/Sunils/Shahenshah/-