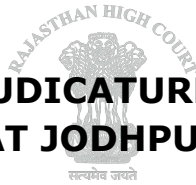




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Civil Writ Petition No. 17818/2018
CNR: RJHC010788522018 | URN: CW / 43419U / 2018

1. Matadeen Saran S/o Shri Panchu Ram, Aged About 31 Years, Resident Of Kheld Lila, Tehsil Makrana District Nagaur.
2. Premsukh S/o Shri Bhagu Ram,, Aged About 31 Years, Resident Of Dobdi Kalan, Tehsil Makrana District Nagaur.
3. Bimla Devi W/o Shri Suresh Dhayal,, Aged About 32 Years, Resident Of Dobdi Kalan, Tehsil Makrana District Nagaur.

----Petitioners

Versus

1. The State Of Rajasthan, Through Secretary, Department Of Rural Development And Panchayati Raj, Government Of Rajasthan, Secretariat, Jaipur.
2. Dy. Secretary, School Education Department, Government Of Rajasthan, Secretariat, Jaipur.
3. Addl. Commissioner And Joint Secretary, Rural Development And Panchayati Raj Department, Rajasthan, Jaipur.
4. Director, Elementary Education, Rajasthan, Bikaner.
5. District Collector, Nagaur.
6. Chief Executive Officer, Zila Parishad, Nagaur.
7. District Education Officer (Elementary), Nagaur.
8. Block Elementary Education Officer, Panchayat Samiti Makrana District Nagaur.
9. School Development And Management Committee (Sdmc), Dobadi Kalan, Panchayat Samiti Makrana District Nagaur.

----Respondents

For Petitioner(s) : Mr. Inderjeet Yadav
For Respondent(s) : Mr. Kuldeep Singh Solanki for
Mr. I.R. Choudhary, AAG
Mr. Sukesh Bhati

**HON'BLE MR. JUSTICE KULDEEP MATHUR
ORDER**

Reserved on:- 14/09/2026

Pronounced on:- 26/09/2026

1. The present writ petition has been filed under Article 226 of the Constitution of India assailing the order dated 15.08.2018 passed by the District Level Committee, Nagaur, whereby the selection of the petitioners as Gram Panchayat Sahayaks at





Government Senior Secondary School, Dobadi Kalan, Panchayat Samiti Makrana, District Nagaur, has been cancelled. The petitioners seek quashing of the aforesaid order and restoration of their selection and appointment.

2. The facts leading to the instant writ petition are that the State Government, for engagement of Gram Panchayat Sahayaks, issued guidelines dated 08.11.2016 prescribing the eligibility conditions and broad procedure for selection. The procedure was thereafter supplemented by circular dated 27.01.2017 and detailed guidelines dated 01.02.2017. Pursuant thereto, the selection process at Gram Panchayat Dobadi Kalan was undertaken in February, 2017. The SDMC of Government Senior Secondary School, Dobadi Kalan, constituted a selection board and, on 17.02.2017, conducted the selection process on the basis of the criteria adopted by it, taking into consideration, inter alia, the educational qualification, experience and interview performance of the candidates. The petitioners participated in the process and were selected.

3. The selections made by the SDMC were thereafter placed before the District Level Committee and were recommended for appointment. Upon approval by the Chief Executive Officer, Zila Parishad, Nagaur, appointment orders were issued on 18.05.2017. Pursuant thereto, the Gram Vikas Adhikari, Gram Panchayat Dobadi Kalan, issued appointment letters to the petitioners on 19.05.2017 and they joined as Gram Panchayat Sahayaks. Subsequently, several complaints were raised questioning the selection process. The District Level Committee, after obtaining a factual report and examining the relevant record, passed an order



dated 26.09.2017 recording that 52 candidates had applied for selection at Gram Panchayat Dobadi Kalan and that the SDMC had adopted a partial and discriminatory procedure. It was further recorded that, contrary to the proposal of the SDMC, experience certificates had been disregarded and relatives and family members had been selected arbitrarily. Treating the selection process as disputed and doubtful, the Committee cancelled the selection of the petitioners.

4. Aggrieved by the aforesaid action, the petitioners approached this Court by filing S.B. Civil Writ Petition No.12592/2017. Vide order dated 27.11.2017, this Court allowed the writ petition and quashed the orders terminating the petitioners' engagement, directing reconsideration of the matter after affording due opportunity of hearing. Pursuant thereto, the matter was again taken up by the concerned authorities and the petitioners were afforded an opportunity of hearing on 08.03.2018. Thereafter, an order dated 27.04.2018 was passed cancelling the petitioners' selection. In the meantime, this Court, in **Malu Ram Vs. State of Rajasthan & Ors., S.B. Civil Writ Petition No.4374/2018 and connected matters**, decided on 10.05.2018, directed constitution of a Committee comprising the Chief Executive Officer of the concerned Zila Parishad, the concerned District Education Officers and the Block Elementary Education Officer, and directed such Committee to consider the disputes on the basis of fresh representations and to pass specific and reasoned orders, after affording opportunity of hearing to affected parties wherever required. The petitioners again approached this Court by way of filing S.B. Civil Writ Petition



No.6653/2018 against the order dated 27.04.2018. In view of the aforesaid directions, the petitioners' writ petition was disposed of on 11.05.2018 in terms of the decision rendered in Malu Ram (supra), requiring the controversy concerning their selection to be considered in accordance with the mechanism and directions laid down therein.

5. Pursuant thereto, notice dated 23.07.2018 was issued to the petitioners requiring them to appear before the District Level Committee on 06.08.2018. The petitioners relied upon the record of the selection process, including the constitution of the selection board, the criteria adopted, the merit/priority list, the marks obtained by the candidates and the approvals granted by the competent authorities. They also relied upon their respective experience certificates issued by the District Education Officer, Elementary Education, Nagaur, showing more than five years' experience as Vidyarthi Mitra, and disputed the allegations regarding selection of relatives or family members. They further relied upon an earlier departmental inquiry and its report to contend that the SDMC had not in fact been reconstituted on the date of selection and that the reference to its reconstitution was attributable to human error.

6. The District Level Committee, referring to the hearing afforded to the petitioners on 06.08.2018 and the material relating to the selection process, concluded that the selection process undertaken by the SDMC was affected by partiality and discrimination. The Committee referred to the proposal and criteria adopted by the SDMC, the investigation material, the alleged reconstitution of the SDMC, non-adherence to the



prescribed criteria, the composition of the Selection Board, the alleged disregard of experience certificates and the selection of relatives and family members. The Committee further recorded a finding that the selection of the petitioners had been made in a partial manner on account of relationship/kinship and treated the entire selection process as controversial and doubtful. It consequently rejected the petitioners' representations and cancelled their selection vide impugned order dated 15.08.2018.

7. Subsequently, the Chief Executive Officer, Zila Parishad, Nagaur, on 29.08.2018, forwarded/marked the representation of the petitioners dated 06.08.2018 to the Block Elementary Education Officer, Makrana and sought a factual report regarding the selection process at Gram Panchayat Dobadi Kalan. In response, the Block Elementary Education Officer submitted factual report No.98 dated 07.09.2018. The report recorded that the petitioners had been selected by the SDMC on 17.02.2017 and that all three possessed the requisite eligibility and qualifications. It further recorded that they possessed experience certificates issued by the District Education Officer, Elementary Education, Nagaur, showing more than five years' experience as Vidyarthi Mitra. With regard to the alleged reconstitution of the SDMC, the report referred to the earlier departmental inquiry and recorded that the SDMC had not been reconstituted and that the reference to reconstitution was a result of human error. The report also dealt with the allegation regarding selection of relatives and family members with reference to the composition of the selection board and forwarded the factual position to the competent authority for appropriate action.



8. Aggrieved by the impugned cancellation order dated 15.08.2018, the petitioners instituted the present writ petition. On 19.11.2018, this Court, while directing the respondents to take necessary steps within three weeks, ordered that, in the meanwhile and until further orders, the effect and operation of the order dated 15.08.2018 qua the petitioners shall remain stayed. The said interim protection has continued and the petitioners have accordingly remained in service.

9. Subsequently, on 08.12.2022, separate appointment orders, in identical terms, were issued in favour of all three petitioners by the District Education Officer (Headquarters), Elementary Education, Nagaur, under the Rajasthan Civil Posts (Contractual Appointment) Rules, 2022. By the said orders, the petitioners were appointed as Vidyalaya Sahayaks on contractual basis at PEEO Dobadi Kalan, Makrana, for a period of five years or until attaining the age of 60 years, whichever was earlier, subject to the terms and conditions specified therein. The petitioners have thus continued to discharge their duties on the said post during the pendency of the present proceedings as the effect and operation of the order dated 15.08.2018 has been stayed by this Court and continues to remain stayed.

10. Learned counsel for the petitioners submitted that the impugned order dated 15.08.2018 is unsustainable as the District Level Committee, despite being specifically directed to reconsider the matter after affording an opportunity of hearing to the affected persons, has failed to consider the material placed by the petitioners in its correct perspective. It was submitted that, after passing of the order dated 27.11.2017 and thereafter the



directions issued in **Malu Ram (supra)**, the District Level Committee was required to examine the fresh representations of the petitioners and the material placed by them and to record specific reasons for accepting or rejecting their defence. Instead, the Committee has substantially reiterated the earlier allegations and has again arrived at the conclusion that the selection process was partial, discriminatory and suspicious without dealing with the specific material produced by the petitioners.

11. Learned counsel contended that the petitioners' selection could not have been annulled merely by referring to general allegations of irregularity or suspicion in the selection process. It was submitted that the petitioners had participated in a selection conducted by the SDMC on 17.02.2017; their names were thereafter placed before the competent authorities; the selections were recommended and approved; appointment orders were issued; and the petitioners joined service pursuant thereto. At no stage had the petitioners themselves exercised any authority over the administrative approvals which followed their selection. Therefore, if their individual selections were to be cancelled, the Committee was required to identify the particular illegality or manipulation by which their respective selections stood vitiated. A general finding against the selection process, according to learned counsel, could not by itself justify cancellation of the petitioners' appointments.

12. Learned counsel further submitted that the petitioners had specifically placed on record their experience certificates issued by the District Education Officer, Elementary Education, Nagaur, showing more than five years' experience as Vidyarthi Mitra. The



said material went directly to the allegation that experience certificates had been disregarded during the selection process. Yet, the impugned order does not examine the individual experience possessed by the petitioners or explain why the certificates relied upon by them did not merit consideration.

13. Learned counsel also submitted that the allegation regarding selection of relatives or family members is vague and could not constitute a basis for cancellation in the absence of a specific finding establishing the relationship, the manner in which such relationship influenced the selection and the particular selection which was thereby rendered illegal. The impugned order does not identify any particular petitioner whose selection was secured through favouritism or any specific act of manipulation attributable to the selection board.

14. Learned counsel for the petitioners placed reliance upon the factual report No.98 dated 07.09.2018 submitted by the Block Elementary Education Officer, Makrana. It was submitted that the said report was obtained by the Chief Executive Officer, Zila Parishad, Nagaur during the pendency of the present proceedings and, upon verification of the relevant record, recorded that the petitioners had been duly selected on 17.02.2017 and possessed the requisite eligibility and qualifications as well as more than five years' experience as Vidyarthi Mitra. Significantly, with regard to the allegation concerning reconstitution of the SDMC, the report recorded that no such reconstitution had taken place and that the earlier reference thereto was attributable to human error. Learned counsel submitted that this subsequent factual verification materially corroborates the defence which had been taken by the



petitioners before the Committee and demonstrates that an important factual premise relied upon while questioning the selection was itself incorrect.

15. Lastly, learned counsel for the petitioners submitted that the petitioners had remained in service pursuant to their original selection and appointment and, during the pendency of the present proceedings, have also been issued separate appointment orders dated 08.12.2022 under the Rajasthan Civil Posts (Contractual Appointment) Rules, 2022. It was therefore prayed that the impugned order dated 15.08.2018 deserves to be quashed, the petitioners' selection and engagement pursuant to the selection process be protected, and appropriate consequential relief be granted in accordance with law.

16. *Per contra*, learned counsel for the respondents submitted that the impugned order dated 15.08.2018 was passed keeping in view the directions issued by this Court in **Malu Ram (supra)**, after affording due opportunity to the petitioners. It was submitted that the District Level Committee considered the material relating to the selection process and, upon examining the manner in which the selection had been undertaken by the SDMC, found the process to be vitiated by partiality and discrimination. Learned counsel contended that the selection of the petitioners could not be examined in isolation when the very process in which they were selected had been found to be doubtful and irregular.

17. Learned counsel further submitted that the subsequent factual report dated 07.09.2018 cannot be relied upon by the petitioners for assailing the correctness of the impugned order. It was submitted that the said report was sought by the Chief





Executive Officer, Zila Parishad, Nagaur only on 29.08.2018, i.e. after the impugned order dated 15.08.2018 had already been passed. The factual report was thus the result of a subsequent administrative exercise and was not before the District Level Committee when it considered the petitioners' representations and passed the impugned order. Learned counsel submitted that a subsequent administrative report cannot retrospectively alter or invalidate the decision taken by the competent authority on the material available before it on 15.08.2018.

18. It was accordingly contended that the petitioners cannot seek to reopen the concluded decision of the District Level Committee merely by relying upon a subsequent report prepared during the pendency of the proceedings. The impugned order, according to learned counsel, does not call for interference and the writ petition deserves to be dismissed.

19. Heard learned counsel for the parties at Bar. Perused the material available on record.

20. Before proceeding to examine the controversy in hand, it would be appropriate to notice the relevant factual and procedural background. The petitioners were initially selected by the SDMC on 17.02.2017 and were thereafter appointed as Gram Panchayat Sahayaks. Their selection was subsequently cancelled by the District Level Committee on 26.09.2017. The petitioners challenged the said action before this Court and, vide order dated 27.11.2017, the orders terminating their engagement were quashed with a direction for reconsideration after affording due opportunity of hearing. Upon reconsideration, their selection was



again cancelled vide order dated 27.04.2018, which was assailed by the petitioners in S.B. Civil Writ Petition No.6653/2018.

21. Vide order dated 11.05.2018, this Court noticed that the controversy raised in S.B. Civil Writ Petition No.6653/2018 was covered by the judgment rendered in Malu Ram Vs. State of Rajasthan & Ors., S.B. Civil Writ Petition No.4374/2018 and connected matters, decided on 10.05.2018, and disposed of the petition in the same terms. Pursuant thereto, the petitioners were issued notice dated 23.07.2018 and were afforded an opportunity of hearing before the District Level Committee on 06.08.2018. The Committee thereafter passed the impugned order dated 15.08.2018 rejecting their representations and cancelling their selection. The present writ petition was instituted against the said order and, on 19.11.2018, this Court stayed its effect and operation qua the petitioners. The interim protection has continued thereafter.

22. After passing of the impugned order dated 15.08.2018, the Chief Executive Officer, Zila Parishad, Nagaur, on 29.08.2018, sought a factual report from the Block Elementary Education Officer, Makrana, which was submitted vide report No.98 dated 07.09.2018. The report records, inter alia, the selection of the petitioners on 17.02.2017, their eligibility and qualifications, their experience certificates showing more than five years' experience as Vidyarthi Mitra and the factual position concerning the alleged reconstitution of the SDMC. Subsequently, on 08.12.2022, separate appointment orders were issued in favour of the petitioners under the Rajasthan Civil Posts (Contractual





Appointment) Rules, 2022. These subsequent developments have also been placed before the Court.

23. In view of the aforesaid factual and procedural background, the following questions arise for consideration:

(i) *Whether the District Level Committee, while reconsidering the petitioners' case pursuant to the order dated 11.05.2018 passed by this Court, duly complied with the directions issued in the said order read with the judgment in **Malu Ram**?*

(ii) *Whether the reasons recorded by the District Level Committee furnish a sustainable basis for cancelling the petitioners' selection?*

(iii) *Whether the subsequent factual report dated 07.09.2018 has any bearing upon the validity of the impugned order dated 15.08.2018?*

Question No. (i): Whether the District Level Committee complied with the directions issued by this Court?

24. The order dated 11.05.2018 passed by this Court in S.B. Civil Writ Petition No.6653/2018 is of significance, since the impugned order has been passed pursuant thereto. By the said order, this Court noticed that the controversy raised in the writ petition was covered by the decision rendered in **Malu Ram (supra)** and disposed of the petition in the same terms. The relevant directions contained in Malu Ram required constitution of the Committee, submission of fresh representations by the concerned petitioners and consideration of each dispute by the Committee by passing specific orders with reasons to accept or deny the causes taken up in the representations. The Committee was further required to afford opportunity of hearing to the concerned and affected parties wherever required.





25. It is thus clear that the earlier writ petition was not decided independently of **Malu Ram (supra)**. The petitioners' case was directed to be reconsidered through the mechanism stipulated therein. The scope of that reconsideration is, therefore, required to be gathered from the directions issued in **Malu Ram (supra)**.

26. The relevant directions in **Malu Ram (supra)** read as under:

"28. In view of the above, this Court deems it appropriate to issue the following directions:-

(i) The respondents shall constitute a Committee comprising of CEO Zila Parishad concerned, DEO Elementary Education concerned, DEO Secondary Education concerned and BEEO concerned. The petitioners shall give fresh representations to such Committee constituted by the Zila Parishad. The Committee shall be required to operate with a quorum of at least two members of the aforesaid four members Committee, which have been suggested by the Additional Advocate General himself in the presence of the DEO Legal Elementary, Jodhpur.

(ii) The Committee shall make the necessary consideration of each dispute and pass specific orders with reasons to accept or deny the causes taken up by the petitioners in their representations.

(iii) If the grievances of the petitioners is affecting any third party then the Committee shall be required to give sufficient opportunity of hearing to the third party as well, before coming to the conclusion regarding the dispute in question.

(iv) The respondents shall not conduct any fresh selection process for the post of Gram Panchayat Sahayak in the Gram Panchayats where the dispute has been raised by the petitioners, until a proper speaking order is passed upon the representation by the Committee.

(v) The respondents shall be at liberty to continue the contract of the existing Gram Panchayat Sahayaks strictly in accordance with law and as per the policy decision of the State Government, but on completion of the first term for the Gram Panchayat Sahayaks where the dispute is raised by the petitioners, the extension / renewal of the contract shall not be granted until final orders upon the representations of the petitioners are passed.



(vi) The respondents, therefore, shall be required to hear all the parties concerned and affected, through their Committee a quorum of which has already been laid down by this Court with the assistance of the learned Additional Advocate General, and until the conclusion in the shape of speaking order is made by the Committee concerned, any further selection process in the Gram Panchayats regarding the post of Gram Panchayat Sahayak concerned where the dispute has been raised by the petitioners, in particular, shall not be made."

27. The emphasis in the aforesaid directions is upon consideration of the dispute raised by each petitioner and upon passing of a specific and reasoned order. The Committee was, therefore, required to examine the grounds taken in the fresh representations and thereafter arrive at a reasoned conclusion. The direction was not merely to provide an opportunity of hearing and mechanically affirm the earlier decision. At the same time, the directions did not require the Committee to accept the defence of the petitioners or to undertake a fresh selection process; the requirement was to reconsider the disputes raised by the petitioners in accordance with the mechanism prescribed by this Court.

28. In the present case, the petitioners were issued notice dated 23.07.2018 and were heard on 06.08.2018. Their representations were accompanied by the material relating to the selection process, including their eligibility and experience, the criteria adopted by the SDMC, the merit/priority list, the marks awarded and the approvals which followed their selection. They also disputed the alleged reconstitution of the SDMC and the allegation concerning selection of relatives and family members.



29. The impugned order records consideration of the SDMC proposal and criteria, the complaints received and the investigation material. It specifically refers to the alleged reconstitution of the SDMC, non-adherence to the criteria, the composition of the Selection Board, the alleged disregard of experience certificates and the selection of relatives and family members. The Committee thereafter recorded its conclusion that the selection process was partial, discriminatory and doubtful. Significantly, the Committee also recorded that the selection of the petitioners had taken place in a partial manner on account of relationship/kinship.

30. The Committee further recorded as under:

"अतः माननीय उच्च न्यायालय द्वारा याचिका संख्या 6653/18 में पारित निर्णय दिनांक 11.05.18 की पालना में सुनवाई का पर्याप्त अवसर देने व सुनने के पश्चात् कोई नया तथ्य प्रस्तुत नहीं हुआ है। अतः याचिकार्थी श्री मातादीन सारण ग्राम पंचायत सहायक, ग्राम पंचायत डोबडीकला का चयन निरस्त किया जाकर अभ्यावेदन अस्वीकार कर खारिज किया जाता है।"

31. The aforesaid material shows that the petitioners were heard and that their representations were considered. The Committee did not merely reproduce the earlier order; it referred to the grounds on which reconsideration was sought and recorded the circumstances which, according to it, rendered the selection process doubtful.

32. True it is that the Committee did not deal separately with each individual assertion made by the petitioners. However, the requirement of a reasoned order does not necessarily mean that every sentence or submission in a representation must receive a separate answer. What was required was consideration of the disputes raised by the petitioners and disclosure of the basis on





which their representations were rejected. The impugned order, read as a whole, indicates that the Committee considered the material relating to the selection process and recorded the circumstances on which it maintained its conclusion. The requirement of reconsideration in terms of the directions issued by this Court, therefore, cannot be said to have been disregarded.

33. Question No. (i) is, accordingly, answered in affirmative and against the petitioners.

Question No. (ii): Whether the reasons recorded by the District Level Committee furnish a sustainable basis for cancelling the petitioners' selection?

34. The petitioners have relied upon their educational qualifications and experience certificates and contend that they fulfilled the eligibility conditions. They have also relied upon the fact that their selection by the SDMC was thereafter placed before the competent authorities and appointments were issued. These circumstances establish their eligibility and the subsequent administrative approvals. However, eligibility of a candidate and validity of the process through which the candidate came to be selected are distinct considerations. The subsequent administrative approval, by itself, does not conclusively establish the validity of the selection process.

35. The District Level Committee proceeded on the basis that the irregularities alleged were not confined to any isolated defect concerning the petitioners but went to the manner in which the selection process itself had been conducted. The Committee referred to the SDMC proposal and criteria, the investigation material, the alleged reconstitution of the SDMC, the composition



of the Selection Board, the alleged disregard of experience certificates and the allegation regarding selection of relatives and family members. It consequently treated the selection process as affected by partiality and discrimination.

36. The Committee also recorded a specific finding that the selection of the petitioners had taken place in a partial manner on account of relationship. Such a finding, if it is to constitute an independent basis for cancelling an individual selection, ordinarily requires identification of the relationship relied upon and some material showing how such relationship operated so as to affect the selection. The impugned order, however, records the conclusion in general terms and does not disclose, with corresponding specificity, the identity of the relative concerned or the particular act by which the alleged relationship resulted in the selection of the petitioners.

37. The aforesaid finding, however, cannot be examined in isolation from the remaining reasons recorded by the Committee. The impugned order does not rest solely upon the allegation of kinship. The Committee has also referred to the constitution of the Selection Board, the manner in which the prescribed criteria were allegedly not adhered to, the alleged disregard of experience certificates contrary to the SDMC proposal, the alleged reconstitution of the SDMC and the selection of relatives and family members. The Committee treated these circumstances cumulatively while arriving at the conclusion that the selection process was partial, discriminatory and doubtful.

38. The petitioners have placed material which supports their defence on certain aspects of the case. In particular, the



experience certificates relied upon by them support their contention regarding their individual experience, while the earlier departmental inquiry and the subsequent factual report have been relied upon to dispute the allegation regarding reconstitution of the SDMC. These matters may create a factual dispute regarding individual aspects of the case. They do not, however, by themselves require this Court to undertake a fresh appraisal of the entire selection process in exercise of writ jurisdiction.

39. The jurisdiction under Article 226 is supervisory. The Court is required to examine the legality of the decision-making process and whether the conclusion has some material basis. It is not ordinarily the function of the Court to substitute its own assessment of disputed facts for that of the competent administrative authority. Particularly, where the competent authority has examined the selection record and has reached a conclusion upon cumulative consideration of several circumstances affecting the selection process, interference would be warranted only where the conclusion is shown to be based on no material, irrelevant considerations or such patent perversity as would render the decision legally unsustainable.

40. In the present case, the Committee's conclusion regarding the selection process was based upon the cumulative consideration of the circumstances noticed by it. The individual eligibility of the petitioners cannot, by itself, validate a selection process which the competent authority found to have been materially compromised. Likewise, the subsequent approval of the selections and issuance of appointment orders cannot, by themselves, cure an underlying defect in the selection process, if



such defect is otherwise established on the material considered by the competent authority.

41. The Court has also taken note of the fact that the subsequent factual report dated 07.09.2018 disputes one of the aspects concerning the alleged reconstitution of the SDMC. However, as shall be noticed while dealing with Question No. (iii), the said report was prepared after the impugned order and was not before the Committee when the decision was taken. In any event, the impugned decision was not founded solely upon the allegation regarding reconstitution; the Committee had also referred to the criteria adopted, the constitution of the Selection Board, the treatment of experience certificates and the allegation concerning selection of relatives and family members.

42. In these circumstances, even if the subsequent report is taken note of for the limited purpose of examining the factual position regarding reconstitution of the SDMC, it does not by itself efface the other circumstances which weighed with the Committee. The petitioners have not demonstrated that the conclusion recorded by the Committee was based on no material or that the Committee acted upon wholly irrelevant considerations. This Court, therefore, finds no sufficient ground to hold that the conclusion recorded by the District Level Committee is so perverse or legally unsustainable as to warrant interference in exercise of jurisdiction under Article 226 of the Constitution.

43. Question No. (ii) is, accordingly, answered against the petitioners.



Question No. (iii): Whether the subsequent factual report dated 07.09.2018 affects the validity of the impugned order?

44. The petitioners have also relied upon factual report No.98 dated 07.09.2018 submitted by the Block Elementary Education Officer, Makrana.

The chronology of events is material. The impugned order was passed on 15.08.2018. The Chief Executive Officer, Zila Parishad, Nagaur thereafter sought the factual report on 29.08.2018, and the same was submitted on 07.09.2018.

45. The report records that the petitioners had been selected on 17.02.2017 and possessed the requisite eligibility and qualifications. It further records their experience of more than five years as Vidyarthi Mitra and, with regard to the alleged reconstitution of the SDMC, records that the SDMC had not been reconstituted and that the reference to reconstitution was attributable to human error. The report also deals with the allegation concerning selection of relatives and family members.

46. The report thus contains observations which support the petitioners on certain factual aspects. Nevertheless, it was prepared after the impugned order had already been passed. It was, therefore, not part of the material before the District Level Committee when it took the decision on 15.08.2018.

In the considered opinion of this Court, for determining whether the Committee's decision dated 15.08.2018 suffers from an error in the decision-making process, the relevant consideration is the material which was before the Committee when the decision was taken. The subsequent report cannot



retrospectively be treated as material considered by the Committee on 15.08.2018. Nor does the report purport to review or supersede the impugned order.

The subsequent factual report may have relevance for an appropriate administrative consideration, but that is distinct from the question whether the order dated 15.08.2018 was legally sustainable on the material available to the Committee on that date. For that limited purpose, the report dated 07.09.2018 cannot retrospectively invalidate the earlier decision.

47. Question No. (iii) is, accordingly, answered against the petitioners.

Conclusion

48. The petitioners' case has thus been examined in the context of the directions issued by this Court in their earlier writ petition and in light of **Malu Ram (supra)**, the material placed before the District Level Committee and the reasons recorded in the impugned order. The Committee afforded an opportunity of hearing to the petitioners and considered the grounds raised by them. Its conclusion was based upon its assessment of the facts and material relating to the selection process as a whole. The petitioners have not been able to demonstrate that the decision-making process was vitiated by consideration of irrelevant material, absence of material or such patent perversity as would warrant interference in exercise of jurisdiction under Article 226 of the Constitution.

49. The subsequent factual report dated 07.09.2018, though containing certain observations favourable to the petitioners, was not before the District Level Committee when the impugned order





was passed and, therefore, cannot retrospectively alter the basis of the decision dated 15.08.2018. The report may have relevance for any appropriate administrative consideration in accordance with law, but does not render the impugned order legally unsustainable.

50. The subsequent appointment orders dated 08.12.2022 also do not create any independent right in favour of the petitioners so as to render the impugned order infructuous. The petitioners continued in service pursuant to the interim protection granted by this Court on 19.11.2018 and, during such continuation, the aforesaid orders came to be issued under the Rajasthan Civil Posts (Contractual Appointment) Rules, 2022. The issuance of such orders, therefore, cannot be construed as validation of the original selection which had already been cancelled by the impugned order.

51. In view of the foregoing discussion, this Court finds no ground to interfere with the impugned order dated 15.08.2018 passed by the District Level Committee, Nagaur. The writ petition is accordingly dismissed. The interim order dated 19.11.2018 stands vacated. The respondents shall consequently be at liberty to give effect to the order dated 15.08.2018 and take consequential action in accordance with law.

52. Pending applications, if any, also stand disposed of accordingly.

(KULDEEP MATHUR),J

-/Dinesh Suthar/-