

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

S.B. Civil Writ Petition No. 7936/2007

Rajasthan Public Service Commission, Jaipur Road, Ajmer
Through Its Secretary.

----Petitioner

Versus

1. The Commissioner- Persons With Disabilities, Government Of Rajasthan, G-3/1, Ambedkar Bhawan, Behind Hotel Rajmahal, Jaipur.
2. Shri Naresh Kumar Doot S/o Not Known, Plot No. A 213-B, Jai Nagar, Near Jat Samaj Sansthan, Murlipura Scheme Road, Jaipur 302013.
3. Dr. Sunita Berwal D/o Not Known, Plot No. A 213-B, Jai Nagar, Near Jat Samaj Sansthan, Murlipura Scheme Road, Jaipur 302013.

----Respondents

For Petitioner(s) : Mr. Nitin Jain
For Respondent(s) : None

**HON'BLE MR. JUSTICE SAMEER JAIN
Order****18/04/2024**

1. Despite of service, none has marked attendance on behalf of the respondents.
2. The present petition is filed with the following prayers:
 - “(i) by an appropriate writ, order or direction, the impugned orders dated 06.09.2007 (Annex.15) and 12.09.2007 (Annex.16) passed by the respondent no. 1 be declared to be null and void and same be quashed and set aside and also be declared that the respondent No. 1 is not empowered to pass such orders;
 - (ii) by an appropriate writ, order or direction, it be held that the respondent No. 1 is not entitled



to use word 'court' as per provisions of the Act of 1995;

(iii) by an appropriate writ, order or direction, the respondent No. 1 be directed to create hindrance in the regular working of petitioner by passing orders beyond its powers provided under the Act of 1995;

(iv) Any other order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may also kindly be passed in favour of the humble petitioner besides the costs of litigation."

3. At the outset, learned counsel for the petitioner has placed reliance upon the dictum of this court enunciated in **Rajasthan Public Service Commission vs. Ram Niwas Gaur** in **S.B. CWP No.5628/2009** and upon the judgment of the Hon'ble Apex Court titled as **State Bank of Patiala & Ors. vs. Vinesh Kumar Bhasin**, reported in **(2010)4 SCC 368**. Relying upon the same, it is averred that the facts of the present case are of an akin factual matrix with the above referred cases, wherein, time and again it has been held by the Hon'ble Apex Court that as an authority functioning under the Disabilities Act, the commissioner has no power or jurisdiction to issue a direction to the employer, not to retire an employee. In fact, under the scheme of Disabilities Act, the Chief Commissioner (or the Commissioner) has no power to grant any interim direction. Therefore, as the instant matter is identical and is squarely covered by **Ram Niwas Gaur (Supra)**, relief granted therein, may be granted to the petitioner.

4. Heard.





5. Considering the foregoing facts and circumstances and upon perusal of the record it is evident that the judgments cited at Bar are of an akin nature with the facts of the present petition. It is also noted that inspite of service, none has marked appearance qua the respondents to refute the said contentions.

6. Therefore, in view of the contentions noted above and relying upon the dictum enunciated in **Ram Niwas Gaur (Supra)** and **Vinesh Kumar Bhasin (Supra)**, this Court deems it appropriate to allow the instant petition, in terms of the prayers so made.

7. As a result, the impugned orders dated 06.09.2007 & 12.09.2007 are quashed and set aside.

8. Accordingly, the present petition is allowed. Pending applications, if any, stand disposed of.

(SAMEER JAIN),J

DEEPAK/s-487