



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

S.B. Civil Writ Petition No. 6372/2024

Naresh Singhal S/o Sh. Suresh Singhal, aged about 44 Years,
R/o 342/28 Near Ashirwad Party Lawn Park, Gurgaon HR
122001. (Owner of Truck Bearing No. **HR55AL1044**)

----Petitioner

Versus

1. State of Rajasthan, Transport Department of Rajasthan Secretariat Jaipur, Through Secretary.
2. Department of Mining and Geology, Government of Rajasthan, Secretariat Jaipur through Joint Secretary.
3. Regional Transport Officer, Sikar District Sikar Rajasthan.

----Respondents

Connected with

S.B. Civil Writ Petition No. 6527/2024

Munaphad Khan S/o Ilayas

----Petitioner

Versus

State Of Rajasthan

----Respondent

S.B. Civil Writ Petition No. 6847/2024

Sardara Ram S/o Shri Deena Ram and Ors.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6716/2024

Mahadev Int Udhyog and Ors.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6857/2024

Munfed Son Of Gaffar

----Petitioner



State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6681/2024

Balbir Singh S/o Shri Chanderbhan and Anr.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6642/2024

M/s Raghuvanshi Traders and Anr.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6629/2024

Ramniwasjangra S/o Amar Singh

----Petitioner

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6523/2024

Sunil S/o Mahesh

----Petitioner

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6628/2024

Mohanlal S/o Hanuman Das Swami and Ors.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents





S.B. Civil Writ Petition No. 6624/2024

M/s. Khusabu Minerals And Mines

----Petitioner

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6617/2024

M/s. Khusabu Minerals And Mines

----Petitioner

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 16997/2023

Birma Ram S/o Bhar Mal

----Petitioner

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6294/2024

Hanswahini Traders

----Petitioner

Versus

The State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 5834/2024

Satya Pal S/o Om Prakash and Ors.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6545/2024

CBR Construction

----Petitioner



[CW-6372/2024]

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6546/2024

Satya Narayan Gurjar S/o Sharwan Lal Gurjar and Ors.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6538/2024

Papu Singh and Ors.

----Petitioners

Versus

State Of Rajasthan and Ors.

----Respondents

S.B. Civil Writ Petition No. 6544/2024

Sharwan Singh and Ors.

----Petitioners

Versus

State of Rajasthan and Ors.

----Respondents

For Petitioner(s) : Mr. Kan Singh Rathore
Mr. Hanumant Singh
Mr. Anjani Kumar Sharma
Mr. Raj Kumar Goyal
Ms. Rajni Vyas
Mr. Iliyas Khan
Mr. Raj Kumar Saini
Mr. Aatish Jain
Mr. Ram Avtar Pareek
Mr. Mritunja Sharma
Mr. Surjeet Singh
Mr. Harshad Kapoor
Mr. Sunil Kumar Bansal
Mr. Shivatma Kumar Tank
Mr. Hemant Singh Shekhawat
Mr. Sachin Kumar Mittal



For Respondent(s) : Mr. S.S.Naruka-AAG with
Mr. S.S.Nirwan

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Order

02/05/2024

Reportable

Justice is not a saleable commodity. All aggrieved persons should not be compelled by the State Authorities to approach the Court of law and get similar orders which have been passed in favour of the similarly situated persons who approached the Court earlier.

When the judgment pronounced by a Court is a judgment-in-rem with an intention to give its benefit to all the similarly situated persons whether they have approached the Court or not, an obligation lies on the part of the authorities to itself extend the benefit thereof to all the similarly situated persons. It is in this back ground the issue involved in this petition is required to be adjudicated.

1. Since common questions of law and facts are involved in these matters, hence with the consent of counsel for the parties, all these matters are taken up together for final disposal and are hereby being decided by this common order.
2. For the sake of convenience, S.B. Civil Writ Petition No. 6372/2024 is taken as a lead case.
3. The instant writ petition has been filed by the petitioner with the following prayer:-





“It is therefore, most respectfully prayed that your Lordships may kindly be pleased to allow this writ petition and:

(I) By an appropriate writ, order or direction respondents be directed to remove the vehicle of the petitioner from blacklisting and Vehicle is Flagged as NTBT (Not To Be Transacted).

(ii) By an appropriate writ, order direction, the penalty imposed by the respondents for the alleged overloading be quashed.

(iii) Or any other appropriate relief may kindly be granted to the petitioner which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(iv) Cost of the litigation may kindly be granted to the petitioner.”

4. By way of filing these petitions, the petitioners have challenged the action of the respondents by which their vehicles have been blacklisted and are being flagged as NTBT. The petitioners have also assailed the action of the respondents by which penalty has been imposed upon them for the alleged overloading in their vehicles.

5. At the outset, counsel for the parties are in agreement that the issue involved in these petitions has already been set at rest by the Co-ordinate Bench of this Court in the case of **Zabir Khan Vs. State of Rajasthan & Ors.** (S.B. Civil Writ Petition No.1964/2022) decided on 14.03.2022. Counsel for the parties are in agreement that the instant petitions be also disposed of in the light of the direction issued in the case of **Zabir Khan** (supra).

6. A consent order was passed by the Co-ordinate Bench of this Court in the case of **Zabir Khan** (supra) with the following observations and directions which read as under:-

“Challenge in the writ petitions is to the action of the respondents whereby, the trucks/transport/loading vehicles belonging to the petitioners, registered with various registering authorities, have been categorized as





"blacklisted" on the "Vahan Portal" of the Transport Department for alleged overloading solely on the strength of e-rawanna issued by Mining Department. On the joint request and with the consent of the learned counsels for the respective parties, these writ petitions are disposed of in following terms:

- (i) The respondents shall launch prosecution against those petitioners/ vehicle owners who do not wish to opt for Amnesty Scheme floated by the respondents for compounding the offence of overloading valid upto 31.03.2022 within two weeks thereafter.
- (ii) The vehicle of the petitioners/ vehicle owners shall be de-classified from "blacklisting" immediately.
- (iii) Learned Additional Advocate General undertakes to get nomenclature from "blacklisting" changed to any other appropriate and suitable nomenclature reflecting offence(s) committed by the drivers/vehicle owners, on its "Vahan Portal".
- (iv) In cases where the allegations of overloading appears to be false on their face in view of some technical glitch, the petitioners/vehicle owners shall be at liberty to submit are presentation for redressal of their grievance(s) within 10 days from today and the learned AAG assures that the same will be considered within a week thereafter vide a reasoned order with its communication to the petitioners/vehicle owners.
- (v) For renewal of permit / fitness certificate/registration certificate or of transfer of registration certificate, the respondents shall proceed in accordance with the statutory provisions contained under the Motor Vehicles Act, 1988 without being influenced by the fact that their vehicles have been classified as "blacklisted".

Meaning thereby the controversy involved in these petitions has already been decided in the above matter.

7. This Court has noticed that after decision of the issue involved in the case of **Zabir Khan (supra)**, thousands of identical writ petitions have been filed by the aggrieved persons for getting orders in the light of the order passed in the case of **Zabir Khan (Supra)**.



8. It appears that the respondents are not complying with the directions issued by this Court in letter and spirit and are unnecessarily compelling the aggrieved persons to approach this Court again and again for getting the similar order and directions issued in the case of **Zabir Khan (Supra)**. Such action of the respondents has opened flood gates for the aggrieved persons to approach this Court for getting the similar orders.

9. Once the judgment passed by this Court in the case of **Zabir Khan** (supra) has been accepted by the respondents and the same has not been challenged before any Appellate Forum by way of filing an appeal, then under these circumstances, the respondents are bound by the order/directions issued by this Court in the case of **Zabir Khan** (supra) in letter and spirit.

10. Counsel for the respondents submits that the directions issued in the case of **Zabir Khan** (supra) were confined to those petitioners who approached this Court and the judgment was passed not in rem but in personam, hence, it is not possible for the State Authorities to comply with the directions issued in the case of **Zabir Khan** (supra) in the case of similarly situated persons.

11. The question which emerges for consideration of this Court is whether the benefit which has been given to similarly placed persons, by this Court in the case of **Zabir Khan** (supra), can be given to the present petitioners being similarly situated.

12. On many occasions Hon'ble Apex Court as well as this Court has held that all the similarly situated persons should be treated similarly. Only because one person has approached the Court that



would not mean that persons who are similarly situated but have not approached Courts should be treated differently.

13. The normal rule is that when a set of persons is given a relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. Thus, to deny similar benefits to the similarly placed persons on the touchstone of what has already been granted to a particular set of persons would tantamount to discrimination and violation of Articles 14 and 16 of the Constitution of India.

14. Now with a view to deal with the submissions raised by counsel for the State respondents regarding applicability of the judgment passed in the case of **Zabir Khan** (supra) in rem or judgment in personam, this Court proceeds further to deal with the terms "**In personam**" and "**In rem**".

15. The term "**In personam**" literally means against a particular person. **In personam** is distinguished from **in rem** which applies to property or the entire world instead of a specific person. Judgment in personam binds only those who are parties to it, whereas judgments for which provision is made in Section 41 of the Evidence Act are usually referred to as **judgment in rem**. The phrase "**judgment in rem**" has not been defined, but it has all along been understood as meaning, a judgment which is conclusive not only against the parties, but also against the whole world. Such judgments declare, define or otherwise determine the status of a person or of a thing, that is to say, jural relationship of a person or thing to the world generally.



16. The Hon'ble Supreme Court in the case of **Booz Allen & Hamilton INC vs., SBI Home Finance Limited & others**, reported in **(2011) 5 SCC 532** has stated as follows:

"37. It may be noticed that the cases referred to above relate to actions in rem. A right in rem is a right exercisable against the world at large, as contrasted from a right in personam which is an interest protected solely against specific individuals. Actions in personam refer to actions determining the rights and interests of the parties themselves in the subject-matter of the case, whereas actions in rem refer to actions determining the title to property and the rights of the parties, not merely among themselves but also against all persons at any time claiming an interest in that property. Correspondingly, a judgment in personam refers to a judgment against a person as distinguished from a judgment against a thing, right or status and a judgment in rem refers to a judgment that determines the status or condition of property which operates directly on the property itself."

17. In **Sri Ram vs., Prabhu Dayal & others**, reported in **(1972)AIR (Raj.) 180**, this court after referring to Sections 41 to 43 of the Evidence Act has observed as follows:

"Normally a judgment binds only those who are parties to it. Such judgments are known as judgments in personam. Judgments for which provision is made in Section 41 of the Evidence Act are usually referred to as judgments in rem. This phrase "a judgment in rem" has not been defined, but it has all along been understood as meaning a judgment which is conclusive not only against the parties, but also against the whole world. Such judgments declare, define or otherwise determine the status of a person or of a thing, that is to say, jural relationship of a person or thing to the world generally. A judgment in rem is an adjudication pronounced as its name indeed denotes, upon the status of some particular subject-matter, by a tribunal having competent authority for that office (vide passages referred to in the Sarkar's Law of Evidence, Twelfth Edition at page 464). The term "legal character" as used in Section 41 means something equivalent to status. The legal character



assigned to a person announces to the entire world what the legal status of a person is. The term must be narrowly construed, for it must be remembered that an action in rem is not an action against a thing but an action availing against all the world."

18. The Hon'ble Supreme Court in case of **State of UP. Vs. Arvind Kumar Srivastava**, reported in (2015)1 SCC 347 has held as under:

"22.3. However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of regularization and the like. On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

19. Justice is not a saleable commodity. The State Authorities cannot be allowed to compel the aggrieved persons to approach the Court of Law and get the same order. Once an issue has been decided by the Court of Law and the same has not been challenged by the State Authorities before any Appellate Court and thus, it attained finality, then the State Authorities are bound by the same. The State should not unnecessarily compel the aggrieved persons to knock the doors of the Court again and again for getting a similar order. The "doctrine of finality of judgment" is applicable in such matters.



20. It is settled proposition of law that when a judgment is pronounced by the Court, affecting the rights of public at large, then the said judgment should be treated as a judgment in rem with intention to give benefit to all the similarly situated persons, whether they approached the Court or not. With such a pronouncement, the obligation is casted upon the authorities to itself extend the benefit thereof to all the similarly situated persons. The judgment passed by this Court in the case of **Zabir Khan** (supra) can be treated as a judgment in rem and not in personam henceforth. The respondents are directed to grant benefit of directions issued by this Court in the case of **Zabir Khan** (supra) to all the similarly situated aggrieved persons without compelling them to approach this Court again and again for getting the similar orders.

21. For this purpose, the respondents may issue a common circular /notice on their official website and put the same on the Public Notice Board of all the Offices of the Transport Department, intimating all the aggrieved persons to approach the respondent authorities for redressal of their grievance by way of filing appropriate representation. In case, any representation is submitted by any of the aggrieved persons, the respondents are expected to hear and decide the same within a period of three days.

22. The District Transport Office (DTO), in all the Districts of the State of Rajasthan, be directed to redress the grievance of the aggrieved persons by deciding their representations within the stipulated period fixed by this Court, in the light of directions issued in the case of **Zabir Khan** (supra).





23. Disobedience of the Court orders strikes at the very root of the Rule of Law and the judicial orders are bound to be obeyed at all costs.

24. It is made clear that in case, any willful disobedience is made by the respondents in compliance of the orders/directions issued by this Court, then the same would be viewed seriously and would amount to contempt of the Court.

25. All these petitions accordingly stand disposed of in the light of the directions issued in the case of **Zabir Khan (Supra)**.

26. All the stay applications and pending application(s), if any, also stand disposed of.

27. Registry is directed to place a copy of this order in every connected files.

(ANOOP KUMAR DHAND),J

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