**Reportable**

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

D.B. Special Appeal Writ No. 1695/2025
CNR: RJHC011012902025 | URN: SAW / 3046U / 2025

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Baria Sharmishtha Ben W/o Sanjay Kumar Bhilwal, Aged About 40 Years, R/o Ward No. 07, Jhanjharwa Kalla, Banswara, Rajasthan.

----Appellant

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Medical And Health Department, Jaipur, Raj.
2. Joint Secretary, Medical And Health Department, Jaipur, Raj.
3. Director, State Institute And Health And Family Welfare, Jhalana Institutional Area, Near Doordarshan Kendra, Jaipur Raj.

----Respondents

For Appellant(s) : Mr. C.S.Kotwani.
For Respondent(s) : Mr. N.S.Rajpurohit, AAG assisted by Ms Kanchan Jodha.

**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR**
**HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA**
**Order**

**05/11/2026**

1. Heard learned counsel for the parties.

2. The present Special Appeal has been filed by the appellant against the order dated 23.09.2025 passed by learned Single Bench in ***S.B.Civil Writ Petition No.17547/2025 (Baria Sharmishtha Ben v/s State of Rajasthan & Ors.***) whereby the writ petition filed by the appellant-petitioner has been dismissed.

3. Brief facts necessary to be noted are that the appellant-petitioner hails from the State of Gujarat and her caste is recognized in ST category in the State of Gujarat. Her marriage

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was solemnized with a person living in the State of Rajasthan having the same caste to which the appellant belongs. After her marriage, the appellant applied for appointment to the post of Nursing Officer and claimed reservation in ST category. The respondent State rejected candidature of the appellant in ST category and considered her candidature for appointment to the post of Nursing Officer in General Category. In these circumstances, the appellant preferred a writ petition before the learned Single Bench. However, relying upon the judgment of Hon'ble Supreme Court in the case of ***Ranjana Kumari Vs. The State of Uttarakhand & Ors. (Civil Appeal No.8425/2003, decided on 01.11.2018 [(2019) 15 SCC 664****]*, the learned Single Bench vide its order dated 23.09.2025 dismissed the writ petition filed by the appellant-petitioner. Hence, the present appeal has been preferred.

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4. Learned counsel for the appellant-petitioner vehemently argued that the appellant belongs to a caste which is considered in ST category in the State of Gujarat and on the same footing, in the State of Rajasthan, the caste to which the appellant belongs is also categorized as ST category, therefore, her candidature was required to be considered in ST category. He, therefore, prays that the order passed by the learned Single Bench may be quashed and set aside and the respondent State may be directed to consider the candidature of the appellant in ST category for appointment to the post of Nursing Officer.

5. Per contra, Mr. N.S. Rajpurohit, learned Additional Advocate General submits that the argument advanced by learned counsel for the appellant is not sustainable in view of the judgments

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rendered by the Hon'ble Supreme court in the cases of ***Marri Chandra Shekhar Rao v/s Dean Geth G.S. Medical College and others reported in (1990) 3 SCC, 130, Action Committee on the issue of Caste Certificate to Scheduled Castes and scheduled Tribes in the State of Maharashtra and Anr. V/s UOI & Anr. Reported in (1994) 5 SCC, 244*** wherein it has been categorically held that if a person belongs to a reserved category in a particular State migrates for appointment in another State then candidature of that candidate will be considered in General Category. Learned counsel for the State also submits that there was a specific condition in the advertisement that if a candidate belonging to reserved category migrates in the State of Rajasthan, the candidature of such a candidate will be considered in general category. On the strength of the above arguments, learned AAG submits that the learned Single Bench has rightly dismissed the writ petition filed by the appellant and prays that the order passed by the learned Single Judge does not call for any interference by this court.

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6. Having considered the submissions made at the bar, we note that undisputed facts in the present case disclose that the appellant belongs to a caste which is categorized in the ST category in the State of Gujarat. After her marriage with a person belonging to ST category, the appellant started living in the State of Rajasthan. While she was living in the State of Rajasthan, she applied for appointment to the post of Nursing Officer and claimed reservation as a ST category candidate. However, while the exercise for appointment to the post of Nursing Officer was in progress, her candidature was rejected in ST category and

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appellant was considered in general category. The learned Single Bench in the light of judgment rendered by the Hon'ble Supreme Court in the case of **Ranjana Kumari** (supra) held that if a candidate belonging to Gujarat migrates to the State of Rajasthan then her candidature will be considered in General Category.

7. The Hon'ble Supreme Court in the case of ***Marri Chandra Shekhar Rao (supra)*** in para No.13 has held as under:-

> "13. It is trite knowledge that the statutory and constitutional provisions should be interpreted broadly and harmoniously. It is trite saying that where there is conflict between two provisions, these should be so interpreted as to give effect to both. Nothing is surplus in a Constitution and no part should be made nugatory. This is well-settled. See the observations of this Court in Sri Venkataramana Devaru & Ors. v. State of Mysore & Ors., where Venkatarama Aiyar, J. reiterated that the rule of construction is well-settled and where there are in an enactment two provisions which cannot be reconciled with each other, these should be so interpreted that, if possible, effect could be given to both. It, however, appears to us that the expression 'for the purposes of this Constitution' in Articles 341 as well as in Article 342 do imply that the Scheduled Castes and the Scheduled Tribes so specified would be entitled to enjoy all the constitutional rights that are enjoyable by all the citizens as such. Constitutional right, e.g., it has been argued that right to migration or right to move from one part to another is a right given to all--to scheduled castes or tribes and to non-scheduled castes or tribes. But when a Scheduled Caste or tribe migrates, there is no inhibition in migrating but when he migrates, he does not and cannot carry any special rights or privileges attributed to him or granted to him in the original State specified for that State or area or part thereof. If that right is not given in the migrated state it does not interfere with his constitutional right of equality or of migration or of carrying on his trade, business or profession. Neither Article 14, 16, 19 nor Article 21 is denuded by migration but he must enjoy those rights in accordance with the law if they are otherwise followed in the place where he migrates. There should be harmonious construction, harmonious in the sense that both parts or all parts of a constitutional provision should be so read that one part does not become nugatory to the other or denuded to the other but all parts must be read in the context in which these are used. It was contended that the only way in which the fundamental rights of the petitioner under Article 14, 19(1)(d), 19(1)(e) and 19(1)(f) could be given effect to is by construing Article 342 in a manner by which a member of a Scheduled Tribe gets the benefit of that status for the purposes of the Constitution throughout the territory of India. It was submitted that the words "for the purposes of this Constitution" must be given full effect. There is no dispute about that. The words "for the purposes of this Constitution" must mean that a Scheduled Caste so designated must have right under Articles 14, 19(1)(d), 19(1)(e) and 19(1)(f) inasmuch as these are applicable to him in his area where he migrates or where he goes. The expression "in relation to that State" would become nugatory

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> if in all States the special privileges or the rights granted to Scheduled Castes or Scheduled Tribes are carried forward. It will also be inconsistent with the whole purpose of the scheme of reservation. In Andhra Pradesh, a Scheduled Caste or a Scheduled Tribe may require protection because a boy or a child who grows in that area is inhibited or is at disadvantage. In Maharashtra that caste or that tribe may not be so inhibited but other castes or tribes might be. If a boy or a child goes to that atmosphere of Maharashtra as a young boy or a child and goes in a completely different atmosphere or Maharashtra where this inhibition or this disadvantage is not there, then he cannot be said to have that reservation which will denude the children or the people of Maharashtra belonging to any segment of that State who may still require that protection. After all, it has to be borne in mind that the protection is necessary for the disadvantaged castes or tribes of Maharashtra as well as disadvantaged castes or tribes of Andhra Pradesh. Thus, balancing must be done as between those who need protection and those who need no protection, i.e., who belong to advantaged castes or tribes and who do not. Treating the determination under Articles 341 and 342 of the Constitution to be valid for all over the country would be in negation to the very purpose and scheme and language of Articles 341 read with Article 15(4) of the Constitution."

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*8.* The Hon'ble Supreme court in the case of ***Action Committee (supra)*** in para 16 & 17 has held as under*:-*

> "16. We may add that considerations for specifying a particular caste or tribe or class for inclusion in the list of Scheduled Castes/Schedule Tribes or backward classes in a given State would depend on the nature and extent of disadvantages and social hardships suffered by that caste, tribe or class in that State which may be totally non est in another State to which persons belonging thereto may migrate. Coincidentally it may be that a caste or tribe bearing the same nomenclature is specified in two States but the considerations on the basis of which they have been specified may be totally different. So also the degree of disadvantages of various elements which constitute the input for specification may also be totally different. Therefore, merely because a given caste is specified in State A as a Scheduled Caste does not necessarily mean that if there be another caste bearing the same nomenclature in another State the person belonging to the former would be entitled to the fights, privileges and benefits admissible to a member of the Scheduled Caste of the latter State "for the purposes of this Constitution". This is an aspect which has to be kept in mind and which was very much in the minds of the Constitution-makers as is evident from the choice of language of Articles 341 and 342 of the Constitution. That is why in answer to a question by Mr Jaipal Singh, Dr Ambedkar answered as under:
>
> > "He asked me another question and it was this. Supposing a member of a Scheduled Tribe living in a tribal area migrates to another part of the territory of India, which is outside both the scheduled area and the tribal area, will he be able to claim from the local Government, within whose jurisdiction he may be residing the same privileges which he would be entitled to when he is residing within the scheduled area or within the tribal area? It is a difficult question for me to answer. If that matter is agitated in quarters where a decision on a

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> matter like this would lie, we would certainly be able to give some answer to the question in the form of some clause in this Constitution. But so far as the present Constitution stands, a member of a Scheduled Tribe going outside the scheduled area or tribal area would certainly not be entitled to carry with him the privileges that he is entitled to when he is residing in a scheduled area or a tribal area. So far as I can see, it will be practicably impossible to enforce the provisions that apply to tribal areas or scheduled areas, in areas other than those which are covered by them..."
>
> Relying on this statement the Constitution Bench ruled that the petitioner was not entitled to admission to the medical college on the basis that he belonged to a Scheduled Tribe in the State of his origin."

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"17. Lastly the Constitution Bench referred to the cleavage in the views of different High Courts on the interpretation of Articles 341 and 342 of the Constitution and the consequential orders passed by the Government of India and the State Governments. It referred to the two decisions of the Gujarat High Court as well as the decision of the Karnataka High Court which place the interpretation canvassed before us by Mr Raju Ramachandran. The other side referred to the decisions of the Orissa High Court in K. Appa Rao v. Director of Posts & Telegraphs, Orissa10, the decision of the Full Bench of the Bombay High Court in M.S. Malathi v. Commissioner, Nagpur Division" and the decision of the Punjab & Haryana High Court in V.B. Singh v. State of Punjab12 which take the contrary view canvassed before us by the respondents. All these decisions were considered by the Constitution Bench which agreed with the latter view. It upheld the view expressed in the communication dated 22-2-1985 and negatived the challenge of the petitioner that the said view was ultra vires Articles 14, 15, 16 or 21. It, however, observed that in the facts and circumstances of the case and having regard to the fact that the petitioner student's career was involved it directed the authorities to consider whether the petitioner was a 'Goudi' and if yes, the institution may consider if he can be allowed to complete his studies in the institution. However, on the interpretation of the relevant provisions of the Constitution this Court was clear in its view that legally speaking he was not entitled to admission in the Scheduled Tribe quota."

9. In view of the law laid down by the Hon'ble Supreme Court in the judgments referred to hereinabove, we are in agreement with the view taken by the learned Single Judge that a candidate belonging to the Scheduled Tribe (ST) category in a State other than the State of Rajasthan, upon applying for a post pursuant to an advertisement stipulating that such a candidate shall be considered under the General Category, would automatically be dis-entitled to claim the benefit of reservation under the Scheduled Tribe category.

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10. In view of the discussions made above, the appeal filed by the appellant devoid of any force and consequently, the same is dismissed.

11. All pending applications, if any, also stand disposed of accordingly.

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**(CHANDRA SHEKHAR SHARMA),J** **(VINIT KUMAR MATHUR),J**

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