

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

D.B.CIVIL CONTEMPT PETITION NO. 941 /2010  
IN

D.B.CIVIL WRIT PETITION NO. 8104/2008

Samta Andolan, Jaipur through its President  
Parashar Narain Sharma S/o Shri Kishori Lal ji  
sharma, Age 51 years, R/o 39 Ram Nagar-C,  
Jhotwara, Jaipur.

...Petitioners

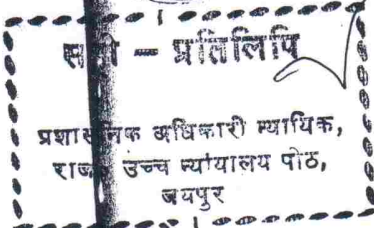
**Versus**

1. Shri Salauddin Ahmed, Chief Secretary,  
State of Rajasthan, Secretariat, Jaipur.

2. Shri Khemraj Chaudhari, Principal  
Secretary, Department of Personnel,  
Government of Rajasthan, Secretariat,  
Jaipur.

...Contemnors/Non-Petitioners

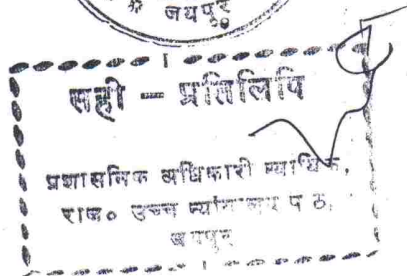
CONTEMPT PETITION UNDER  
ARTICLE 215 CONSTITUTION OF  
INDIA READ WITH SECTIONS 10,  
11, 12 OF THE CONTEMPT OF  
COURTS ACT FOR WILFUL  
DISOBEDIENCE OF ORDER DATED  
5.2.2010 PASSED IN D.B.CIVIL  
WRIT PETITION NO.8104/2008 -



Oath Commissioner  
Rajasthan High Court

BAJRANG LAL SHARMA AND ORS  
 V/S STATE OF RAJASTHAN AND  
 ORS. BY . HON'BLE MR. JUSTICE  
 N.K. JAIN AND R.S. RATHORE JJ

To,



- 1
- (1) D.B. Civil Contempt Petition No.941/2010  
(2) D.B. Civil Contempt Petition No.359/2011

Date of Order : 18<sup>th</sup> October, 2011

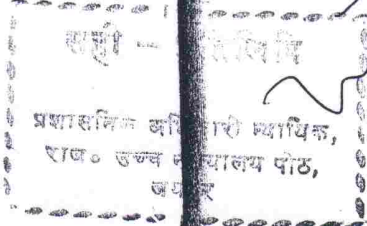
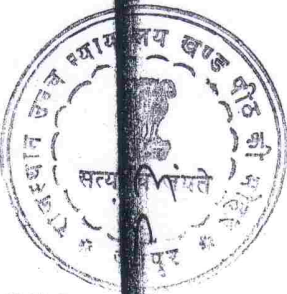
**HON'BLE THE CHIEF JUSTICE MR. ARUN MISHRA**  
**HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN-I**

Mr. Sanjeev Prakash Sharma, Sr. Advocate with assisted by  
Mr. Shobhit Tiwari, Mr. S.S. Shekhawat and  
Mr. M.L. Lahoti, for petitioner.

Mr. G.S. Bapna, Advocate General (Sr. Advocate) assisted by  
Mr. Veyankatesh Garg,  
Ms. Raj Sharma, Addl. Govt. Counsel,  
Dr. Manish Singhvi, AAG for the respondents.

Mr. Sanjeev Prakash Sharma, Senior Advocate has produced  
two orders of promotion which have been passed by the  
respondents. He has submitted that they are in derogation to order  
passed by this Court and further submitted that as per the decision  
of this Court, exercise for promotion has not been done for the last  
more than a decade.

It is stated by Mr. G.S. Bapna, Advocate General appearing  
with Mr. Veyankatesh Garg on behalf of the State that several  
persons have retired without their cases being considered for  
promotion and large number of persons of General, OBC, Schedule  
Casts and Schedule Tribe category have suffered due to non-  
consideration of their cases for promotion. The Advocate General  
has offered at the outset to hold D.P.C. on the basis of the Rule of  
'regaining seniority' as decided by this Court which decision has  
been affirmed by the Hon'ble Supreme Court and alternatively also  
on the basis of Rule which has been amended vide Notification  
dated 11<sup>th</sup> September, 2011.





We are surprised in the instant case that for the last more than a decade despite the judgment passed by this Court which has been affirmed by the Hon'ble Supreme Court, the State Government did not conduct any D.P.C. Holding of D.P.C. would have been beneficial to all incumbents of General, OBC., Schedule Casts and Schedule Tribe category. They have been made to suffer by inaction by the State Government. Prima facie, there is no reason; good, bad or otherwise with the State Government not to hold D.P.C. It is not in dispute that there were several judgments referred in the judgment of this Court of which the benefit was given under existing Rule of 1997 and several incumbents have been reverted under the Rules of 1997. Those judgments have attained finality. Now Rule has been amended with retrospective effect on the strength of the Bhatnagar Committee with effect from 1997. There were various submissions raised at bar whether the accrued rights and the benefit of promotion and regaining of seniority which have already been extended to the incumbents, could have been taken away by amending the Rules retrospectively. We leave it open to the State Government to examine and consider aforesaid aspect at its own level.

Time has also been prayed by the Advocate General to argue the matter on behalf of the State Government as Senior Counsel could not come to the Court due to his other occupations before the Hon'ble Supreme Court. Prayer has been seriously opposed by the Senior Counsel appearing on behalf of petitioner. However in the interest of justice, we grant time to argue the matter.

As prayed by learned Advocate General, the State Government may examine propriety of retrospective amendment which has been made. We leave all the questions open. We make it clear that we have not decided any issue which has been raised in the matter.

As prayed by Advocate General, list on 3<sup>rd</sup> November, 2011.

  
(NARENDRA KUMAR JAIN-I), J.

  
(ARUN MISHRA), C.J.

Mohit  
S/11-12

