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

D.B. Special Appeal Writ No. 1872/2025
CNR: RJHC010862442025 | URN: SAW / 3293U / 2025

1. State Of Rajasthan, Through- The Secretary, Devasthan Department, Government Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, Devasthan Department, Government Of Rajasthan, Udaipur.
3. The Assistant Commissioner, Devasthan Department, Hanumangarh Division, Hanumangarh.

----Appellants

Versus

Rajendra Singh Rajpurohit S/o Late Shri Ganga Ram, Resident Of Gali No.2, Rampura Basti, Behind Chahta Factory Kanasar Road, Lalgarh, Bikaner (Rajasthan).

----Respondent

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| For Appellant(s) | : | Mr. Sandeep Soni and Ms. Sulochana Bhati for Mr. B.L. Bhati, AAG. |
| For Respondent(s) | : | Ms. Kamini Joshi |

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**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA**
**HON'BLE MR. JUSTICE SANJEET PUROHIT**

**Order**

**03/08/2026**

1. The issue raised in the present appeal is no more res-integra. The Division Bench of this Court at Jaipur Bench in **DBSAW No.575/2024 (Sate of Rajasthan & Ors. Vs. Virendra Singh & Ors.)** took into consideration the orders passed by the learned Single Judge, which are impugned in the present appeal. The Division Bench approved the orders passed by the learned Single Judge and, while deciding the State appeal, has held as under :-

> "7. In case of **Rajendra Singh Rajpurohit Vs. State of Rajasthan (supra)**, initially the writ petition was allowed on 05.01.2022 on the basis of judgment in case of **Smt. Kanchan Devi vs. State of Rajasthan (supra)**, but an appeal preferred by State of Rajasthan and Ors., an opportunity was granted to file review application and appeal was dismissed as withdrawn. In a review petition filed by the State of Rajasthan and others, the order was modified to the extent that respondent would be governed by the rules of 1957 and entitled for regularization under Rule 25(10) of the rules of 1957.
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> 8. In the instant case, learned counsel has referred comparative chart submitted as Annexure-2 in review petition and we have considered the difference between case of Virendra Singh and Kanchan Singh/Shyamlal. No doubt about it that Kanchan Devi was appointed on 05.05.1986 and Shyamlal on 15.04.1985, whereas Virendra Singh was appointed on 01.12.1994. The respondent was also appointed against a vacant post though initially for a period of three months, but his term was extended from time to time. The principle and ratio except the date of appointment are same. The judgment in case of **Shyamlal (supra)** assailed up to Hon'ble Supreme Court as SLP was dismissed on 27.04.2012.
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> 9. After taking note of observation made by learned Single Judge while dismissing the writ petition and also review petition, we are of the view that the matter was rightly considered on the basis of ratio laid down in case of **Shyamlal (supra) and Kanchan Devi (supra)**. We are fully in agreement with learned Single Judge on the reasons assigned by him while deciding the writ petition and the review petition. Therefore, there is no ground to interfere in the orders passed by the learned Single Judge.
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> 10. Hence, the instant SAW is hereby dismissed with pending application, if any."

2. Even otherwise, the State appeal would not lie against the order passed in review in view of the specific bar contained in Order XLVII Rule 7 CPC, which reads as under:-

> "7. Order of rejection not appealable. Objections to order granting application.—(1) An order of the Court rejecting the application shall not be appealable; but an order granting an application may be objected to at once by an appeal from the order granting the application or in an appeal from the decree or order finally passed or made in the suit.
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> (2) Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and, where it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing which such application was called on for hearing, the Court shall order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.
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> (3) No order shall be made under sub-rule (2) unless notice of the application has been served on the opposite party."

3. The High Court Rules also do not provide any special appeal to be filed against the order passed in review. Since the power of

review flows from a statute, the same cannot be exercised by using inherent powers of this Court under Article 226 of the Constitution as held by the Hon'ble Supreme Court in the case of **Arjun Singh v. Mohindra Kumar and Ors. AIR 1964 SC 993** which has been further relied upon by the Hon'ble Supreme Court in the case of **Saranpal Kaur Anand Vs. Praduman Singh Chandhok and Ors**. **2022 INSC 348.** The relevant portion of **Arjun Singh** (supra) is reproduced hereunder:-

> "It is common ground that the inherent power of the Court cannot override the express provisions of the law. In other words, if there are specific provisions of the Code dealing with a Particular topic and they expressly or by necessary implication exhaust the scope of the powers of the Court or the jurisdiction that may be exercised in relation to a matter the inherent power of the Court cannot be invoked in order to cut across the powers conferred by the Code."

4. In view of the above, the appeal is dismissed on the aforesaid counts.

5. All the pending application(s) also stand disposed of.

(SANJEET PUROHIT),J (SANJEEV PRAKASH SHARMA),ACJ

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