



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

S.B. Civil Writ Petition No. 5481/2020

Mahendra Singh Rathore S/o Shri Govind Singh Rathore, Aged
About 33 Years, Resident Of Plot No. 21, Tilak Nagar First,
Bhadwasia, Jodhpur, District - Jodhpur (Rajasthan).

-----Petitioner

Versus

1. Union Of India, Through Secretary To The Government,
Ministry Of Defense, New Delhi.
2. The Air Chief Marshal, Chief Of Air Staff, Air Headquarters
(VB) Fafi Marg, New Delhi.
3. Air Officer Commanding, Air Force Central Accounts
Office, New Delhi-10.
4. Base Commander, 8- FBSU, Air Force, PIN- 937208 C/o
56 APO.
5. Smt. Aarti Kanwar W/o Shri Mahendra Singh Rathore D/o
Shri Narayan Singh Chouhan, By Caste- Rajput, R/o 264,
Sayar Chhaya Bhawan, Samrat Nagar, Shikargarh,
Jodhpur.

-----Respondents

For Petitioner(s) : Mr. R.N. Choudhary

JUSTICE DINESH MEHTA

Order

24/07/2020

1. By way of the impugned order dated 06.03.2020, the
respondent No.2 has ordered to deduct a sum of Rs.18,100/- from
petitioner's salary as an amount towards maintenance of his wife
Aarti Kanwar, in exercise of power under Section 92(i) of Air Force
Act, 1950 (hereinafter referred to as "the Act of 1950") read with
Rule 162 of the Air Force Rules, 1969.



2. Learned counsel for the petitioner submits that neither under Section 92 nor under any other provision of the Act of 1950, such deduction is permissible, inasmuch as the payment of maintenance can be awarded either under Section 125 Cr.P.C or under the provisions of Hindu Marriage Act, 1955 by the competent Court.

3. While asserting that there is no order of competent Court, determining the amount payable, learned counsel submits that the impugned order passed by the respondent No.2 is per se, without jurisdiction.

4. Matter requires consideration.

5. Admit. Issue notice. Issue notice of stay application also, returnable within six weeks.

6. Meanwhile, effect and operation of the order dated 06.03.2020 (Annex.9) shall remain stayed.

(DINESH MEHTA),J

124-Ramesh/-

सत्यमेव जयते