

Court No. - 7

Case :- WRIT - A No. - 9103 of 2023

Petitioner :- Vijay Bahadur (Vijay Kumar) And 16 Others

Respondent :- U.O.I. Thru. Secy. Ministry Of Rural Development (Mahatma Gandhi Nrega Division) And 3 Others

Counsel for Petitioner :- Ankit Verma,Pali Anurag

Counsel for Respondent :- A.S.G.I.,C.S.C.

Hon'ble Abdul Moin,J.

1. Heard Sri Sudeep Seth, learned Senior Advocate, assisted by Sri Ankit Verma and Ms. Pali Anurag, learned counsel, for the petitioners, Sri Ambrish Rai, learned counsel for respondent no.1, and Sri Nitin Mathur, learned Additional Chief Standing Counsel appearing for respondents no.2 to 4.

2. With the consent of learned counsels for the parties, the writ petition is being decided finally.

3. Instant petition has been filed challenging the order dated 09.11.2023, a copy of which is Annexure-1 to the writ petition, issued by respondent no.4 whereby the petitioners have been informed that their term as Ombudsman would be coming to an end on 05.12.2023 and that the proceedings for new selection are under consideration and it has not been found feasible to extend the term of the petitioners.

4. The contention of learned Senior Advocate is that as per the instructions on Ombudsman issued by the Union of India dated 23.12.2021, a copy of which is Annexure-2 to the petition, which instructions have been issued under the provisions of Section 27 of the MGNREGA Act, Clause 2.2.10 provides that the Ombudsman shall be appointed for tenure of two years extendable not more than twice by one year each based on a performance of appraisal process or till the incumbent attains the age of 68 years, whichever is earlier.

5. It is contended that when the instructions themselves provide for its extension of the term of the Ombudsman on a performance of appraisal process consequently the order impugned by which the respondent no.4 has indicated that the terms of the petitioners would be coming to an end on 05.12.2023 and it has not been found feasible or tenable to extend the term of the petitioners beyond that, is legally unsustainable in the eyes of law.

6. At this stage, learned Senior Advocate states that all the petitioners have received a letter dated 23.11.2023 from the office of respondent no.3 requiring the petitioners to fill in a form for their performance appraisal as Ombudsman.

7. Learned Senior Advocate argues that the said letter appears to be in consonance with Clause 2.2.10 and as the respondents are now proceeding to consider the performance of the petitioners for their extension as such instant petition may be disposed of leaving it open to the petitioners to challenge any subsequent order in case there is anything adverse to the petitioners.

8. Accordingly, keeping in view that subsequent to the order impugned dated 09.11.2023 the office of respondent no.3 has issued a letter dated 23.11.2023, as stated by learned Senior Advocate, requiring the petitioners to submit information for performance of their appraisal as Ombudsman which the petitioners are in the process of submitting and would be submitted within a period of five days, as stated by learned Senior Advocate, instant petition is **disposed of**.

9. It is provided that in case the said performance appraisal report is submitted then the same would be considered by the competent authority in accordance with law and considering the instructions on Ombudsman dated 23.12.2021 preferably prior to the term of the petitioners coming to an end on 05.12.2023.

Order Date :- 24.11.2023

A. Katiyar