

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) No. 1856 OF 2015

Khrist Kain Minj, S/o Shri Prem Chand Minj, aged about 55 years, presently working as Peon at B.L. Higher Secondary School, Bandarchuan, Tahsil -Kunkuri, District- Jashpur (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, School Education Department, Mahanadi Bhawan, New Raipur (C.G.)
2. The Collector, Jashpur, District- Jashpur (C.G.)
3. District Education Officer, Jashpur, District- Jashpur (C.G.)
4. The Principal, B.L. Higher Secondary School, Bandarchuan, Tahsil- Kunkuri, District- Jashpur (C.G.)

... Respondents

WRIT PETITION (S) No. 1905 OF 2015

1. Saihun Kerketta, S/o Shri Kushal Kerketta, aged about 50 years, presently working as Peon at B.L. Higher Secondary School, Bandarchuan, Tahsil- Kunkuri, District- Jashpur (C.G.)
2. Ishwardaan Xaxa, S/o Shri Althor Xaxa, aged about 52 years, presently working as Peon at Luthran Higher Secondary School, Sarhapani, Tahsil- Kansabel, District- Jashpur (C.G.)
3. Uttam Daan Ekka, S/o Shri Ilyasor Ekka, aged about 46 years, presently working as Peon at Luthran Higher Secondary School, Sarhapani, Tahsil- Kansabel, District- Jashpur (C.G.)
4. Nathiniyal Lakra, S/o Shri Anand Mishah, aged about 59 years, presently working as Chowkidar at B.L. Higher Secondary School, Bandarchuan, Tahsil- Kunkuri, District- Jashpur (C.G.)
5. Prabhu Charan Kujur, S/o Shri Silas Kujur, aged about 45 years, presently working as Peon at B.L. Higher Secondary School, Bandarchuan, Tahsil- Kunkuri, District- Jashpur (C.G.)

... Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, School Education Department, Mahanadi Bhawan, New Raipur (C.G.)
2. The Collector, Jashpur, District- Jashpur (C.G.)
3. District Education Officer, Jashpur, District- Jashpur (C.G.)
4. The Principal, B.L. Higher Secondary School, Bandarchuan, Tahsil- Kunkuri, District- Jashpur (C.G.)
5. The Principal, Luthran Higher Secondary School, Sarhapani, Tahsil- Kansabel, District- Jashpur (C.G.)

... Respondents

WRIT PETITION (S) No. 2332 OF 2015

1. Niranjan Lakra, S/o Late Shri Nirmal Lakra, aged about 51 years, presently working as Peon at Luthran Higher Secondary School, Ichkela, Post- Ichkela, Tahsil- Jashpur, District- Jashpur (C.G.)
2. Aijub Bada, S/o Shri Urbanus Bada, aged about 37 years, presently working as Peon at Luthran Higher Secondary School, Ichkela, Post- Ichkela, Tahsil- Jashpur, District- Jashpur (C.G.)

... Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, School Education Department, Mahanadi Bhawan, New Raipur (C.G.)
2. The Collector, Jashpur, District- Jashpur (C.G.)
3. District Education Officer, Jashpur, District- Jashpur (C.G.)
4. The Principal, Luthran Higher Secondary School, Ichkela, Tahsil- Jashpur, District- Jashpur (C.G.)

... Respondents

For Petitioners	:	Mr. Somkant Verma, Advocate.
For Respondent-State	:	Mr. B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/11/2015

1. The challenge in the present set of writ petitions is to the order dated 28.9.2012, Annexure P-1, whereby the earlier order of regularization, dated 1.3.2011, has been cancelled by the Respondents themselves.
2. The admitted fact in the present writ petitions is that the Petitioners in the present case are employees of three private higher secondary schools, namely, B.L. Higher Secondary School, Bandarchuan, Tahsil -Kunkuri, District- Jashpur; Luthran Higher Secondary School, Sarhapani, Tahsil- Kansabel, District- Jashpur; Luthran Higher Secondary School, Ichkela, Tahsil- Jashpur, District- Jashpur.

3. Admittedly, the above referred three institutions are private schools receiving government aid and that the Petitioners have been working with the private establishment. They had initiated proceedings for regularizing the services with the private institutions. Based on the proceedings and recommendations of the schools, the Collector vide order dated 1.3.2011 had issued instructions directing regularization of the Petitioners based on the circular of the Government of Chhattisgarh, dated 5.3.2008, pertaining to regularization. Later on, the department found that the case of the Petitioners was not found to be in accordance with the directives given by the State Government on 5.3.2008 and therefore the impugned order dated 28.9.2012, Annexure P-1, was passed cancelling the earlier order of regularization dated 1.3.2011. However, vide impugned order itself the Collector had issued further instructions for considering the case of the Petitioners for regularization in accordance with the provisions of the circular dated 5.3.2008.

4. The State Government has tried to justify its order on the basis that since the regularization of the Petitioners was not against sanctioned vacant posts as was required under the circular dated 5.3.2008, the impugned order has been passed. Thus, the Respondents have prayed for rejection of the writ petitions as in case if the Petitioners are subsequently found to be eligible in accordance with the circular, their case would be considered and appropriate orders would be passed.

5. Be that as it may once if the State Government has recalled the earlier order on account of certain irregularities detected in the regularization and have also expressed their view to consider the case of the Petitioners in accordance with the circulars of the State

Government, there does not appear to be any flaw in the issuance of the impugned order nor can the intention of the State Government while passing the impugned order said to be bad in law or malafide particularly when they have shown their intention to consider the case of the Petitioners in accordance with the circulars of the State Government.

6. The present writ petitions do not warrant any interference and are dismissed being devoid of merits.

7. Needless to mention that the disposal of the present writ petitions would not preclude the Respondent authorities in considering the case of the Petitioners afresh.

Sd/-
(P. Sam Koshy)
Judge