

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2398 of 2015

- Santram Yadav, Aged about 37 years, S/o Shri Govind Ram Yadav, Worked as Physical Training Instructor (Daily Wages employee) with Municipal Council, Mungeli, District Mungeli, Chhattisgarh R/o Village Gidha, Thana Mungeli, District Mungeli Chhattisgarh
- Vikas Tamboli, Aged about 36 years, S/o Shri Arun Kumar Tamboli, Occupation - Worked as Upper Division Teacher, Subject Commerce (Daily Wages Employee) with Municipal Council, Mungeli, District Mungeli Chhattisgarh R/o Mahamai Ward, Thana Mungeli, District Mungeli Chhattisgarh
- Ku. Rakhi Thakur, Aged about 41 years, D/o Shri S.K. Thakur , Occupation - Worked as Upper Division Teacher, Subject Sanskrit (Daily Wages Employee) with Municipal Council, Mungeli District Mungeli Chhattisgarh R/o Ram Gopal Tiwari Ward, Thana Mungeli, District Mungeli Chhattisgarh
- Smt. Anamika Pathak, Aged about 42 years, Wd/o Shri Shailesh Pathak , Occupation- Worked as Upper Division Teacher, Subject Hindi (Daily Wages Employee) with Municipal Council, Mungeli, District Mungeli Chhattisgarh R/o Sardar Patel Ward, Thana Mungeli, District Mungeli Chhattisgarh
- Harendra Kumar Soni, Aged about 40 years, S/o Late Shri Samelal Soni, Occupation - Worked as Upper Division Teacher Subject Maths (Daily Wages Employee) with Municipal Council Mungeli, District Mungeli Chhattisgarh R/o Ram Gopal Triwari Ward, Thana, Mungeli, District Mungeli Chhattisgarh
- Vinod Kumar Vashnav, Aged about 40 years, S/o Shri Krishna Kumar Vashnav, Occupation Worked as Teacher, Subject Commerce/Hindi/Craft (Daily Wages employee) with Municipal Council Mungeli, District Mungeli Chhattisgarh R/o Shankar Ward Thana Mungeli District Mungeli Chhattisgarh

---- Petitioners

Versus

- State Of Chhattisgarh Through its Secretary, Department of Town Administration And Development, Mahanadi Bhawan, Naya Raipur Chhattisgarh
- State Of Chhattisgarh Through its Secretary Department Of School Education, Mahanadi Bhawan, Naya Raipur Chhattisgarh
- Chief Municipal Officer, Municipal Council, Mungeli District Mungeli Chhattisgarh

- President Of Municipal Council Mungeli District Mungeli Chhattisgarh

---- Respondent

For Petitioners
For Respondent/State

Mr. Vinay Pandey, Advocate
Mr. P.K. Bhaduri, Government
Advocate

S.B.: Hon'ble Mr. Justice Prashant Kumar Mishra
Order On Board

06/07/2015

Heard finally with the consent of learned counsel for the parties.

2. Learned counsel for the petitioners would submit that the petitioners are working as Daily Wagers in the establishment of Municipal Council, Mungeli since after 13.08.2008, when a resolution was passed by the said Municipal Council for engagement of Teachers. Physical Training Instructors (*Vyayam Shikshak*) and Crafts Teacher. He would submit that since after issuance of the order – Annexure P/4, the respondent-Council has disengaged the petitioners even though there is no instruction by the State Government to discontinue the temporary/Daily Wage Employees working in the Municipal Council.

3. Admittedly, the petitioners have not been issued any appointment order. The petitioners have not demonstrated that their appointments were made by following any constitutional scheme of appointment. Moreover, there is no order issued by the competent authority in expressed terms disengaging the petitioners.

4. In view of the law laid down by the Supreme Court in the matter of *Secretary, State of Karnataka & others vs. Umadevi (3) &*

others, (2006) 4 SCC 1 , the petitioners have no right to hold the posts, therefore, no mandamus can be issued against the Municipal Council directing the said authority to continue the petitioners.

5. For the foregoing reasons, the petition has no substance. It fails and is liable to be and is hereby dismissed.

Sd/-

JUDGE

(Prashant Kumar Mishra)

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