

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2381 of 2014**

1. Omprakash Banjare S/o Shri Jeetram Banjare Aged About 37 Years Working as a Security Guard (Contract Basis) In the Office Of National Institute Of Technology, Raipur R/o Village Pachri, P.S. Shivrinarayan, Tahsil Nawagarh, Revenue & Civil Distt. Janjgir Champa C.G.
2. Vijay Kumar Banjare S/ Oshri Jeetram Banjare Aged About 23 Years working as a Security Guard (Contract Basis) In the office of National Institute Of Technology, Raipur R/o Village Pachri, P.S. Shivrinarayan, Tahsil Nawagarh, Revenue & Civil Distt. Janjgir Champa C.G.
3. Tarkeshwar Nath Pandey S/o Shri Rudal Pandey Aged About 40 Years Working as a Security Guard (Contract Basis) In the Office Of National Institute Of Technology, Raipur R/o Pt. Ravishankar Shukla University Amanaka, Kukurbeda, Raipur P.S. Sarastari Nagar, Tahsil & Revenue Distt. Raipur C.G.
4. Nilesh Mishra S/o Shri Prabhunath Mishra Aged About 38 Years Working as a Security Guard (Contract Basis) in the office of National Institute Of Technology, Raipur R/o Pt. Ravishankar Shukla University, Amanaka, Kukurbeda, Raipur PS. Saraswati Nagar,, Tehsil & Revenue Distt. Raipur C.G.
5. Tikendra Purena S/o Shri Chovaram Purena Aged About 20 Years Working as a Security Guard (Contract Basis) In the office of National Institute Of Technology, Raipur, at Present R/o MD 21, Housing Board Colony, Near Pani Tanki, P.S. Saraswati Nagar, Tehsil, Revenue & Civil Distt. Raipur C.G.
6. Rakesh Kumar Fekar S/o Shri Meghnath Fekar Aged About 25 Years Working as a Security Guard (Contract Basis) in the Office Of National Institute Of Technology, Raipur R/o Pt. Ravishankar Shukla University, Amanaka, Kukurbeda, Raipur PS. Saraswati Nagar,, Tehsil & Revenue Distt. Raipur C.G.
7. Dharmendra Singh Chandel S/o Srhi G.S. Chandel Aged About 35 Years Working As A Security Guard (Contract Basis) In the Office Of National Institute Of Technology, Raipur R/o Dt. No. 16, Motio Nagar, Colony Boriakhurd

Road, Santoshi Nagar, P.S. Tikarapara, Tehsil Civil & Revenue Distt. Raipur C.G.

---- Petitioners

Versus

1. Union Of India Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi.
2. The Ministry Of Labour and Employment, through Chief Labour Commissioner (C), New Delhi.
3. Director, National Institute Of Technology, G.E. Road, Raipur P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.
4. Registrar, National Institute Of Technology, G.E. Road, Raiupr P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.
5. The Deputy Registrar National Institute Of Technology, G.E. Road, Raipur P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.

---- Respondents

WPS No. 2382 of 2014

1. Umashankar Singh S/o Shri Shivkumar Singh Aged About 24 Years Working as a Security Gurard (Contract Basis), In the office Of National Institute Of Technology, Raipur, at Present Address Qt. No. H. 147, NIT Campus, G.E.Road, Raipur, P/s Civil Line, Raipur, Distt Raipur, CG
2. Shankar Yadu S/o Shri Pawan Yadu Aged About 31 Years Workint As A Security Gurard (Contract Basis), In The Office Of National Institute Of Technology, Raipur, R/o Gajraj Chowk, Mahimayipara, Purani Basti, Near Main Post Office Raipour, Ps Purani Basti, Civil & Revenue Distt Raipur, Cg
3. Ashwani Kumar Sahu S/o Kejuram Sahu Aged About 42 Years Working As A Security Guard (Contract Basis), In Thr Office Of National Institute Of Technology, Raipur, R/o Village Deori, Ps Batgbahara, Civil & Revenue Distt Mahasamund, Cg
4. Ashwani Singh Rajput S/o Shri Kanshi Singh Rajput Aged

About 40 Years Working As A Security Guard (Contract Basis), In Thr Office Of National Institute Of Technology, Raipur, R/o Village Jarvay, Ps Amanaka, Civil & Revenue Distt Raipur, Cg

5. Suraj Tandi S/o Shri Dashrath Tandi Aged About 21 Years Working As A Security Guard (Contract Basis), In Thr Office Of National Institute Of Technology, Raipur, At Present R/o Mahant Talab, Krishna Nagar, Kota, Ps Sarswati Nagar, Civil & Revenue Distt Raipur, Cg
6. Dhiraj Dewangan S/o Shri Ramsai Dewangan Aged About 26 Years Working As A Security Guard (Contract Basis), In Thr Office Of National Institute Of Technology, Raipur, R/o Sudhir Mukharjee Ward No. 65, Lakhenagar, Ps Tikrapara, Ps Amanaka, Civil & Revenue Distt Raipur, Cg

---- Petitioners

Versus

1. Union Of India Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education, New Delhi
2. The Ministry Of Labour And Employment, Through Chief Labour Commissioner (C), New Delhi
3. Director National Institute Of Technology, G.E.Road, Ps Civil Line, Raipur, Distt Raipur, CG
4. Registrar National Institute Of Technology, G.E.Road, Raipur, P/s Civil Line, Civil & Revenue Distt Raipur, Cg
5. Deputy Registrar National Institute Of Technology, G.E.Road, Raipur, P/s Civil line, Civil & Revenue Distt Raipur, CG

.....Respondents

WPS No. 2506 of 2014

- Naveen Soni S/o Shri Puranlal Soni Aged About 35 Years Working As A Security Guard Contract Basis, In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.

---- Petitioner

Versus

1. Union Of India & Ors. S/o Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour And Employemnt Through Chief Labour Commissioner New Delhi
3. The Director, National Institute Of Technology, G.E. Road, Raiupr P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.
4. The Registrar, National Institute Of Technology, G.E. Road, Raiupr P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.
5. The Deputy Registrar, National Institute Of Technology, G.E. Road, Raiupr P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.

..... Respondents

WPS No. 2518 of 2014

- Lekhchand Kothari, S/o Shri Babaram Kothari, aged about 37 years, working as a Security Guard (Contract Basis), in the office of National Institute of Technology, Raipur, Police Station Sarswati Nagar, Tahsil, Revenue & Civil District Raipur (C.G.)

---- Petitioners

Versus

1. Union Of India, Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour And Employment Through Chief Labour Commissioner (C) New Delhi
3. The Director, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
4. Registrar, National Institute Of Technology, G.E. Road, Raiupr, P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)

5. Deputy Registrar, National Institute Of Technology, G.E. Road, Raiupr P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)

..... Respondents

WPS No. 2520 of 2014

1. Deepak Kumar Sahu S/o Shri Rameshwar Prasad Sahu Aged About 21 Years Working As A Security Gurard (Contract Basis), In The Office Of National Isntitute Of Technolgy, Raipur, PS Saraswati Nagar, Civil & Revenue Distt Raipur, CG
2. Satyaprakash Sahu S/o Shri Dumerlal Sahu Aged About 38 Years Working As A Security Gurard (Contract Basi), In The Office Of National Institute Of Technology, Raipur, PS Saraswati Nagar, Raipur, Civil & Revenue Distt Raipur, CG
3. Om Kumar Sinha S/o Shri Jeevanlal Sinha Aged About 38 Years Working As A Security Guard (Contract Basis), In The Office Of National Institute Of Technology, Raipur, Ps Saraswati Nagar, Raipur, Civil & Revenue Dist Raipur, CG
4. Shankar Kumar S/o Shri Trilochan Kumar Aged About 24 Years Working As A Security Guard (Contract Basis), In The Office Of National Institute Of Technology, Raipur, PS Saraswati Nagar, Civil & Revenue Distt Raipur, CG
5. Laxman Sahu S/o Shri Birjhu Sahu Aged About 36 Years Working As A Security Guard (Contract Basis) In The Office Of National Institute Of Technology, Raipur, PS Saraswati Nagar, Civil & Revenue Distt Raipur, CG
6. Pradeep Kumar Maturkar S/O Shri Deepak Kumar Maturkar, Aged About 25 Years Working As A Security Guard (Contrct Basis), In The Office Of National Institute Of Technology, Raipur, PS Saraswati Nagar, Civil & Revenue Distt Raipur, CG
7. Sanjay Yadu S/o Shri Kamlesh Yadu Aged About 23 Years Working As A Security Guard (Contract Basis) In The Office Of National Institute Of Technology, Raipur, PS Saraswati Nagar, Civil & Revenue Distt Raipur, CG
8. Omprakash Tandi S/o Shri Subran Tandi Aged About 22 Years Working As A Security Guard (Contract Basis) In The Office Of National Institute Of Technology, Raipur, PS Saraswati Nagar, Civil & Revenue Distt Raipur, CG

9. Ramesh Sahu S/o Shri Tuka Sahu Aged About 22 Years Working As A Security Guard (Contract Basis) In The Office Of National Institute Of Technology, Raipur, PS Saraswati Nagar, Civil & Revenue Distt Raipur, CG
10. Devid Sahu S/o Sjhri Rameshwar Prasad Sahu Aged About 21 Years Working As A Security Guard (Contract Basis) In The Office Of National Institute Of Technology, Raipur, PD Saraswati Nagar, Civil & Revenue Distt Raipur, CG

---- Petitioners

Versus

1. Union Of India Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education, New Delhi
2. The Ministry Of Labour And Employment, Through Chief Labour Commissioner (C), New Delhi
3. Director National Institute Of Technology, G.E. Road, Raipur, P/s Civil Line, Civil & Revenue Distt Raipur, CG
4. Registrar, National Institute Of Technology, G.E. Road, Raipur, P/s Civil Line, Civil & Revenue Distt Raipur, CG
5. Deputy Registrar National Institute Of Technology, G.E. Road, Raipur, P/s Civil Line,, Tehsil, Revenue & Civil Distt Raipur, CG

---- Respondents

WPS No. 2529 of 2014

- Komal Sahu, S/o Shri Dhaniram Sahu, aged about 25 years, working as a Security Guard (Contract Basis), in the office of National Institute of Technology, Raipur, Police Station Sarswati Nagar, Tehsil, Revenue & Civil District Raipur (C.G.)

---- Petitioner

Versus

1. Union Of India, Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour And Employment Through Chief

Labour Commissioner (C) New Delhi

3. The Director, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
4. Registrar, National Institute Of Technology, G.E. Road, Raiupr, P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
5. Deputy Registrar, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)

..... Respondents

WPS No. 2531 of 2014

- Balram Manjhi, S/o Shri Sane Manjhi, aged about 29 years, working as a Security Guard (Contract Basis), in the office of National Institute of Technology, Raipur, Police Station Sarswati Nagar, Tehsil, Revenue & Civil District Raipur (C.G.)

---- Petitioner

Versus

1. Union Of India, Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour and Employment Through Chief Labour Commissioner (C) New Delhi
3. The Director, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
4. Registrar, National Institute Of Technology, G.E. Road, Raiupr, P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
5. Deputy Registrar, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)

..... Respondents

WPS No. 2535 of 2014

- Deepak Kumar Nirala, S/o Shri Daaudram Pachhriya, aged about 24 years, working as a Security Guard (Contract Basis), in the office of National Institute of Technology, Raipur, Police Station Sarswati Nagar, Tehsil, Revenue & Civil District Raipur (C.G.)

---- Petitioner**Versus**

1. Union Of India, Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour And Employment Through Chief Labour Commissioner (C) New Delhi
3. The Director, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
4. Registrar, National Institute Of Technology, G.E. Road, Raiupr, P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
5. Deputy Registrar, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)

..... Respondents.**WPS No. 2537 of 2014**

- Pratap Kumar Singh, S/o Chandrashekhar Sinhg, aged about 18 years, working as a Security Guard (Contract Basis), in the office of National Institute of Technology, Raipur, Police Station Sarswati Nagar, Tehsil, Revenue & Civil District Raipur (C.G.)

---- Petitioner**Versus**

1. Union Of India, Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour And Employment Through Chief Labour Commissioner (C) New Delhi

3. The Director, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
4. Registrar, National Institute Of Technology, G.E. Road, Raiupr, P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
5. Deputy Registrar, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)

Respondents

WPS No. 2540 of 2014

- Jagdev Prakash Bartamashi, aged about 36 years, working as a Security Guard (Contract Basis), in the office of National Institute of Technology, Raipur, Police Station Sarswati Nagar, Tehsil, Revenue & Civil District Raipur (C.G.)

---- Petitioner

Versus

1. Union Of India, Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour And Employment Through Chief Labour Commissioner (C) New Delhi
3. The Director, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
4. Registrar, National Institute Of Technology, G.E. Road, Raiupr, P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)
5. Deputy Registrar, National Institute Of Technology, G.E. Road, Raipur P.S. Sarswati Nagar, Tehsil, Revenue and Civil Distt.- Raipur (C.G.)

..... Respondents

WPS No. 2582 of 2014

1. Krishna Singh Rajput S/o Shri Keshav Singh Aged About 24 Years Working As A Security Guard (Contract Basis), In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
6. Surendra Singh Tahkur S/o Shri Shivsagar Singh Tahkur Aged About 43 Years Working As A Security Guard Contract Basis, In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
7. Krishna Suna S/o Shri Prabhuraj Suna Aged About 27 Years Working As A Security Guard (Contract Basis), In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
8. Rajesh Sagar S/o Late Parasi Sagar Aged About 37 Years Working As A Security Guard (Contract Basis), In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
9. Babloo Mahanand S/o Shri Kalai Mahanand Aged About 22 Years Working as a Security Guard (Contract Basis), In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
10. Yaman Kumar Dewangan S/o Shri Roop Singh Dewangan Aged About 25 Years Working As A Security Guard (Contract Basis), In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
11. Madhusudan Tandi S/o Shri Chhavilal Tandi Aged About 29 Years Working As A Security Guard Contract Basis, In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
12. Natraj Singh Dhruw S/o Late Shri Chitra Dhruwa Aged About 29 Years Working As A Security Guard Contract Basis, In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
13. Parasmani Chandrakar S/o Shri Suresh Kumar Chandrakar Aged About 25 Years Working As A Security

Guard Contract Basis, In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.

14. Rupesh Dewangan S/oshri Madhoram Dewangan Aged About 40 Years Working As A Security Guard Contract Basis, In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.

---- Petitioners

Versus

1. Union Of India Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour And Employment Through Chief Labour Commissioner New Delhi
3. Director, National Institute Of Technology, G.E. Road, Raipur P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.
4. The Registrar, National Institute Of Technology, G.E. Road, Raipur P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.
5. The Deputy Registrar, National Institute Of Technology, G.E. Road, Raiupr P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.

--- Respondents

WPS No. 3400 of 2014

1. Nandu Tandi S/o Shri Laxman Tandi Aged About 34 Years Working As A Security Guard (Contract Basis), In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
2. Lalit Mangraj S/o Shri Kalpu Mongraj Aged About 44 Years Working As A Security Guard Contract Basis, In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
3. Raju Sahu S/o Shri Herharam Sahu Aged About 40 Years

Working As A Security Guard Contract Basis, In The Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.

4. Chintaman Tandi, S/O Shri Gajendra Tandi Aged About 42 Years Working As A Security Guard (Contract Basis), In The Office Of National Institute Of Technology, GE Road, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.
5. Sohanlal Raikwar S/o Shri Raghuveer Prasad Raikwar Aged About 40 Years Working As A Security Guard (Contract Basis), in the Office Of National Institute Of Technology, Raipur P.S. Saraswati Nagar, Tahsil & Revenue Distt. Raipur C.G.

---- Petitioners

Versus

1. Union Of India Through The Secretary, Ministry Of Human Resources Development Department Of Higher Education New Delhi
2. The Ministry Of Labour And Employment Through Chief Labour Commissioner (C) New Delhi
3. Director, National Institute Of Technology, G.E. Road, Raiupr P.S. Sarswati Nagar, Tehsil , Revenue , P.S. Sarswati Nagar, Tehsil, Revenue and Civil Dist- Raipur
4. Registrar, National Institute Of Technology, G.E. Road, Raiupr P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.
5. Deputy Registrar, National Institute Of Technology, G.E. Road, Raiupr P.S. Civil Line, Tehsil Civil & Revenue Distt. Raipur C.G.

---- Respondents

For Petitioners : Shri Anish Tiwari, Advocate.

For Respondents No. 1 & 2 : Shri N.K. Vyas, Assistant Solicitor General.

For Respondents No. 3 to 5 : Shri Prateek Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. ORDER

22/01/2016

(1) In this batch of writ petitions, a common question of fact & law is involved, therefore, they were heard together and are being disposed of by this common order.

(2) The petitioners were earlier working as Security Guards with respondent No. 3 – National Institute of Technology, Raipur (hereinafter referred to as 'NIT'). NIT has floated tender notice on 10.04.2012 for outsourcing the services of Security as per Rule 178 of General Financial Rules, 2005 (for short 'Rules, 2005').

(3) These petitioners have questioned the tender notice and sought quashment of the said tender notice and also prayed that appropriate writ be issued commanding the respondents to issue advertisement for filling up the posts of Security Guards in accordance with law.

(4) Return has been filed on behalf of respondents No. 3 to 5 stating *inter alia* that only 10 vacant posts are available against the posts of Attendant, Mali & Security Guard and the requirement is more than 100 and, therefore, NIT, Raipur has decided to undertake outsourcing of the services of Security Guards as per Rule 178 of Rules, 2005 and the tender

proceeding has already been concluded, pursuant to which, tender has been awarded to Bombay Intelligence (India) Limited for providing security to the NIT, Raipur and, as such, the writ petition as framed & filed is not maintainable and deserves to be dismissed.

(5) Mr. Anish Tiwari, learned counsel appearing for the respective petitioners would submit that the petitioners have worked as Security Guards with the NIT for fairly long time and they have vested right to work therein and they cannot be thrown out without following due procedure of law. He would further submit that petitioners' discontinuance and direction of the NIT, Raipur to work with Security Agency is *per se* illegal and not sustainable in law and, therefore, they are entitled to be appointed against the vacant posts for which recruitment process is directed to be initiated for filling up the posts of Security Guards & other subordinate staff, as such, the writ petition deserves to be allowed.

(6) Mr. N.K. Vyas, learned counsel appearing for the respondents No. 1 & 2 would submit that only 10 posts against the subordinate staff is available in which Attendant, Mali & Security Guard have to be recruited whereas looking to the vast area of the NIT, Raipur, more than 100 Security Guards are required to be recruited and, therefore, NIT, Raipur has rightly

undertaken the outsourcing of Security Guards in accordance with Rule 178 of the Rules, 2005 and in absence of challenge to the final tender process, which has already been concluded, no relief can be granted to the petitioners.

(7) Mr. Prateek Sharma, learned counsel for respondents No. 3 to 5 would submit that tender notice itself provides for absorption of all suitable existing Security Guards of the Institute but only 4 petitioners, out of 25 petitioners, have joined the services and remaining 21 petitioners have not joined with the selected agency. He has also adopted the arguments advanced by learned counsel for the respondents No. 1 & 2/Union of India.

(8) I have learned counsel appearing for the parties and considered the rival submissions made therein with utmost circumspection.

(9) Admittedly, the petitioners were dailywager Security Guards employed by Respondent- NIT. Earlier, there are only 10 sanctioned posts of supporting staff, against which, Attendant, Security Guards and *Mali* have to be recruited by the NIT. It is the case of NIT that though 10 posts are sanctioned for Attendant, Security Guards & Mali, but looking to the requirement of NIT for proper and adequate security of the

College and its premises more than 100 Security Guards are required to be recruited, for which they have resorted Rule 178 of the Rules, 2005 for outsourcing of the services in the interest of economy and efficiency of the service and they have issued Tender Notice on 10.4.2014, pursuant to which tender process has been completed and work order was awarded to Bombay Intelligence (India Limited) for providing Security to the NIT.

(10) Fact remains that after filing of the writ petitions, tender proceeding has already been completed and tender has been awarded to the above-stated Company, which has not been challenged in these writ petitions and, therefore, it has become final; and even the said Company, to whom the work has been awarded, has not been impleaded as party respondent in the instant writ petitions and, as such, tender notice which has been sought to be quashed, cannot be quashed as it has become final after its completion and the work order has already been issued to the above stated Company, which is at present providing security services to the N.I.T. Pursuant to tender proceeding.

(11) The petitioners have sought relief that the respondent – NIT be directed to issue advertisement for filling up the posts of

Security Guards and other supporting Staff. It is the stand of the NIT that only 10 sanctioned posts are available against Security Guard, Attendant & Mali whereas the requirement is of more than 100. Even otherwise, they have resorted for the outsourcing of services of the Security Guards as per Rule 178 of the Rules, 2005, and that proceeding has also been finalised. Creation and sanction of the post & recruitment on the said posts are the prerogative of the employer; this Court cannot arrogate the function of the employer by directing the employer to fill up the posts by direct recruitment as there is no allegation that vacant posts are being filled up by back door entry. Even otherwise, tender notice itself provides that the selected agency may absorb all the suitable existing security guards of the Institute. Thus, I do not find any illegality in action of the respondents in outsourcing services of Security Guards by virtue of Rule 178 of the Rules, 2005, as such, tender issued has already been finalized and no challenge has been made to the concluded proceedings and even the Agency to whom the tender of security has been awarded, has not been impleaded as party respondent, therefore, in the considered opinion of this Court, these writ petitions, being without substance, are liable to be dismissed. However, this dismissal of writ petitions will not take away the right of petitioners, if any, provided in tender notice.

(12) Accordingly, the writ petitions deserve to be and are accordingly dismissed subject to above-stated observations.

There shall be no order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-