

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5309 of 2016**

1. Amar Sai S/o Shiv Badan Singh Aged About 28 Years R/o Village And Post Mahangai, Police Station & Tahsil Premnagar, District-Surajpur, Chhattisgarh.
2. Jagdalram S/o Shri Shiv Charan Aged About 32 Years R/o Village And Post Mahangai, Police Station & Tahsil Premnagar, District-Surajpur, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through : The Secretary Tribal Welfare Department Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. The Commissioner, Scheduled Caste And Scheduled Tribe, Development, Raipur, Chhattisgarh.
3. The Collector, District Surajpur Chhattisgarh. (Tribal Develoment).
4. The Assistant Commissioner, Tribe Develoment, Surajpur, District Surajpur, Chhattisgarh.
5. The Block Education Officer, Prem Nagar, District Surajpur, Chhattisgarh.

---- Respondents

For Petitioners : Shri R.V. Rajwade, Advocate.
 For Respondents/State : Shri Garry Mukhopadhyaya, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****07/12/2016**

(1) This petition has been filed by the Part-Time Sweepers working in various Govt. Primary/Middle Schools of District Surajpur, their services have been discontinued in the year 2012.

(2) At the outset, learned counsel for the petitioners submits that the large number of similarly situated Part-Time Sweepers were discontinued from

service and they had filed petitions before this Court. All those petitions were disposed off by a common order dated 9.9.2015. It is submitted that the petitioners herein are identically situated as the petitioners in those petitions, because these petitioners were also Part-Time Sweepers appointed in various schools in the same district i.e. Surajpur and on similar consideration which weighed at the time of termination of petitioners in above referred petitions, these petitioners were also discontinued from service.

(3) Learned counsel for the petitioners submits that the Part-Time Sweepers are low rank of employees and very meagerly paid. Therefore, in these circumstances, this petition may be finally disposed off with a direction to respondents to examine their individual case and on parity, similar relief may be granted in case of the petitioners.

(4) Learned State counsel submits opposes the prayer made by counsel for the petitioners.

(5) This petition filed by Part-Time Sweepers working in school in the same district where the petitioners were also working as Part-Time Sweepers, this Court had an occasion to examine the correctness of decision taken by the authority towards enmass termination of Part-Time Sweepers. The reasons assigned for enmass termination, as reflected in the case of *Rameshwar Prasad Rajwar & Ors. Vs. State of Chhattisgarh & Ors.* and batch of petitions, show that the appointments were illegally made by wrongly construing and interpreting direction of the State Govt. This Court after hearing the parties, held as below:

“7. Upon hearing learned counsel for the parties, it would appear that even if the respective principals/head masters were not informed or authorized to make appointment, the fact remains that the State Government had earlier issued communications to the effect that there is no restriction for

appointing part time sweepers. It has not been disputed by the respondents that the petitioners were infact appointed by the respective principals/head masters prior to issuance of the order (Annexure-P-1) and the order (Annexure-P-7). Once the appointments have been made, even on part time basis, mass cancellation of appointments, without there being any specific individual allegation of corruption or nepotism is not permissible. At the same time, if any part time sweeper is not attending duties as he belongs to some other village or is otherwise not efficient in his work, it always remains open for the concerned head of the department or the appointing authority to initiate action, as the petitioners have no right to hold the post, being only part time sweepers.”

(6) Prima facie this petitioners also seems to be affected by the enmass termination while working in the same district and on similar consideration.

(7) The petitioners, therefore, would also be entitled to similar benefits if their case are similarly situated as the case of those petitioners who had earlier approached this Court and in whose favour, common order was passed on 9.9.2015.

(8) In view of the above consideration, respondent -Assistant Commissioner Tribal Development, Surajpur, shall individually examine the case of the petitioners and verify facts. If this petitioners are similarly situated as the petitioners in earlier batch of petitions, which was decided on 9.9.2015, the benefits which have accrued to those petitioners and as ordered by this Court earlier in the case of *Rameshwar Prasad Rajwar* (supra) shall also be granted to these petitioners.

(9) Considering that the petitioners are very low-paid employee, Assistant Commissioner, Tribal Development, Surajpur, shall complete the exercise within a maximum period of 90 days from the date of receipt of copy of this

order.

(10) If the petitioners' grievance is not redressed/fully redressed, they will be at liberty to revive their petitions.

Sd/-

(Sanjay K. Agrawal)
Judge