

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6926 of 2016

1. Surendra Prasad Kushwaha S/o Shri Kanhaiya Prasad Kushwaha Aged About 32 Years Part Time Sweeper Govt. Primary School Jhamanpara Gram Panchayat Darripara R/o Village Jamanpara P. S. & Tahsil Bhaiyathan Distt. Surajpur (Chhattisgarh)
2. Radhe Singh S/o Hiranman Singh Aged About 40 Years Part Time Sweeper Govt. Girls Higher Secondary School Bhaiyathan R/o Village Bhaiyathan P. S. & Tahsil Bhaiyathan Distt. Surajpur (Chhattisgarh)
3. Smt. Devmaniya W/o Bandhan Aged About 48 Years Part Time Sweeper Govt. Girls Middle School Mishirpara Village Panchayat Batarapara R/o Village Mishrapara P. S. & Tahsil Bhaiyathan Distt. Surajpur (Chhattisgarh)
4. Injoriya W/o Tirath Ram, Aged About 21 Years Part Time Sweeper Govt. Middle School Unchdih Block Surajpur R/o Village Unchdih Post Basdei P. S. & Tahsil Surajpur Distt. Surajpur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Development Mahanadi Bhawan New Raipur Distt. Raipur (Chhattisgarh)
2. The Commissioner Tribal Development Indrawati Bhawan New Raipur Distt. Raipur (Chhattisgarh)
3. The Collector, Surajpur, District Surajpur (Chhattisgarh)
4. The Assistant Commissioner Tribal Development Surajpur, District Surajpur (Chhattisgarh)
5. The District Education Officer, Surajpur, District Surajpur (Chhattisgarh)
6. The Block Education Officer, Bhaiyathan, Distt. Surajpur (Chhattisgarh)
7. Block Education Officer, Block Surajpur, District Surajpur (Chhattisgarh)

---- Respondent

For Petitioners	:	Shri A.N. Pandey, Advocate.
For Respondents/State	:	Smt. Astha Shukla, Panel Lawyer on advance copy. .

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board By

21/12/2016

1. At the outset, learned counsel for the petitioners submits that the petitioners have filed this petition seeking direction for consideration of their cases on the same terms as in case of petitioners in W.P. (S) No.6250/2016 in whose favour order dated 16.11.2016 has been passed, which has been placed on record as Annexure P-4.
2. Learned State counsel submits in order to apply the aforesaid verdict in the present case, it will require verification with regard to extending the same benefit to the present petitioners.
3. It is found that the petitioners are also the Part-Time Sweepers working in the various Govt. Primary/Middle Schools of District Surajpur and their services have been discontinued in the year 2012.
4. 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 in fact 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.”

5. Prima facie this petitioners also seems to be affected by the enmass termination while working in the same district and on similar consideration.
6. The petitioner, therefore, would also be entitled to similar benefits if his 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.
7. 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.

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.

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

Sd/-

(Manindra M. Shrivastava)
Judge

D/-