

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.4192 of 2016**

1. Dev Vijay Singh S/o. Shri Chandrma Singh, Aged About 25 Years R/o. Village Kairadand (Khorma), P. S. Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper A. J A. K Primary School Kairadand (Khorma), Block Pratappur, District Surajpur (Chhattisgarh)
2. Devsharan Singh, S/o. Lt. Shri Sufal Singh, Aged About 26 Years R/o. Village Khoram, P. S. Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper A. J A. K. Boys Primary School Khorma, Block Pratappur, District Surajpur (Chhattisgarh)
3. Shukhdev Ram, S/o Shri Chaitu Ram, Aged About 28 Years R/o. Village Bagda, P. S. & Tahsil Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Middle School Dadurapara (Bagda), Block Pratappur, District Surajpur (Chhattisgarh)
4. Smt. Shushila Kushwaha, D/o Lt. Dudheshwar Prasad, Aged About 29 Years R/o. Village Khorma P. S. And Tehsil Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Primary School Kanya Ashram Khorma, Block Pratappur, District Surajpur (Chhattisgarh)
5. Smt. Sanpatiya, W/o Arjun, Aged About 27 Years R/o. Village Ganeshpur P. S. Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Primary School Chitkabahra (Ganeshpur), Block Pratappur, District Surajpur (Chhattisgarh)
6. Ujit Singh, S/o Shri Khulan Ram, Aged About 30 Years R/o. Village Bharda, P. S. Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Primary School Bharda, Block Pratappur, District Surajpur (Chhattisgarh)
7. Tapeswar Singh, S/o Shri Sadhu Singh, Aged About 23 Years R/o. Village Goura P. S. Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Primary School Goura, Block Pratappur, District Surajpur (Chhattisgarh)
8. Ganga Ram, S/o. Shri Ramavtar, Aged About 25 Years R/o. Village Dhuriya, P. S. Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Primary School Dhuriya, Block Pratappur, District Surajpur (Chhattisgarh)
9. Ram Sai, S/o. Shri Sagar Ram, Aged About 24 Years R/o. Village Khajuri, P. S. Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Primary School Khajuri, Block Pratappur, District Surajpur (Chhattisgarh)

10. Samod Yadav, S/o. Shri Shivdhari Yadav, Aged About 26 Years R/o. Village Dulduli P. S. And Tehsil Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Primary School Dulduli, Block Pratappur, District Surajpur (Chhattisgarh)
11. Ramsajivan, S/o. Shri Tapeswar, Aged About 27 Years R/o. Village Bharda P. S. And Tehsil Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper, A. J A. K Middle School Bharda, Block Pratappur, District Surajpur (Chhattisgarh)
12. Asan Ram, S/o Shri Maan Singh, Aged About 26 Years R/o. Village Pandopara (Kerat), P. S. Pratappur, District Surajpur (Chhattisgarh) Working On The Post Of Sweeper Primary School Pandopara (Kerta), Block Pratappur, District Surajpur (Chhattisgarh)

---- Petitioners

Versus

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

---- Respondents

For Petitioners	: Ms. Neha Verma, Advocate
For Respondent-State	: Mr. Dilman Rati Minj, Dy. Govt. Advocate

Hon'ble Shri Manindra Mohan Shrivastava, J.

Order on Board

30/08/2016

Heard.

1. This petition has been filed by the Part-Time Sweepers working in various schools in district -Surajpur whose 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.

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 cases and on parity, similar relief may be granted in case of each of the petitioners.

3. Learned State counsel submits that unless the facts of the case of petitioners are examined and verified, at this stage, it cannot be said that the petitioners are identically situated as the petitioners in other cases, where order has been passed and it requires verification of the fact.

4. In a batch of petitions filed by Part-Time Sweepers working in various schools 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 these petitioners also seem to be affected by the enmass termination while working in the same district and on similar consideration.

6. The petitioners, therefore, would also be entitled to similar benefits if their cases 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 each of the petitioners and verify facts. If these 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 are not redressed/fully redressed, they will be at liberty to revive their petitions.

Sd/-

(Manindra Mohan Shrivastava)
Judge