

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.7010 of 2016

1. Vijay Kumar, S/o Shri Babulal, aged about 30 years, Part Time Sweeper, Govt. High School Kumda Colliery, Village Panchayat Govindpur, P.S. & Tahsil Surajpur, District Surajpur (C.G.)
 2. Smt. Parvati, W/o Sumaru Ram, aged about 30 years, Part Time Sweeper, Govt. Middle School Sahupara, Village Panchayat Jur, P.S. & Tahsil School Bhaiyathan, District Surajpur (C.G.)
 3. Mahendra Nath, S/o Jagarnath, aged about 32 years, Part Time Sweeper, Govt. Primary School Kherpara, Village Panchayat Govindgarh, P.S. & Tahsil Bhaiyathan, District Surajpur (C.G.)
- Petitioners

Versus

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

For Petitioners: Mr. A.N. Pandey, Advocate.
For Respondents/State: Mr. Dheeraj Kumar Wankhede, Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/12/2016

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 that 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 present petitioners are also Part-Time Sweepers working in various Govt. Primary/Middle Schools of District Surajpur and their services have been discontinued in the year 2012.
4. This petition has been filed by Part-Time Sweepers working in 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 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.”

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 case is 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 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.
8. Considering that the petitioners are very low-paid employees, the Assistant Commissioner, Tribal Development, Surajpur, shall complete the exercise within a maximum period of 90 days from the date of receipt of a copy of this order.
9. If the petitioners' grievance is not redressed/fully redressed, they will be at liberty to revive their petitions.

Sd/-

(Manindra Mohan Shrivastava)
Judge