

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 1192 of 2001****Order reserved on 28.06.2017****Order delivered on 07.07.2017**

1. Miss Jen Merry Samual, D/o Mr. I. Samual, Caste Christian, aged about 31 years, Assistant Teacher
2. Smt. Chanchal Sahu, W/o Shri Lomas Sahu, aged about 26 years, Caste Sahu, Assistant Teacher

Shaheed Veer Narayan Middle School, Ramnagar, Bhilai.

---Petitioners**Versus**

1. State of Chhattisgarh, Through Principal Secretary, School Education Department, Govt. of Chhattisgarh, D.K. Bhawan, Secretariat.
2. District Education Officer, Durg, District Durg (C.G.)
3. President, Bajrang Bal Mandir and Shaheed Veer Narayan Singh Primary/Middle School Managing Committee, Bajrang Bal Mandir Samiti (Registration No. 5946, dated 05.10.1977) Ramnagar, Bhilai, Distt. Durg (C.G.)

---Respondents

For petitioners	:	Mr. V.G. Tamaskar, Advocate.
For respondents No.1& 2/State:		Mr. Arun Sao, Dy. A.G.
For respondent No.3	:	Mr. Alok Bakshi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order [C.A.V.]**

1. The petitioners herein have filed this writ petition calling in question legality, validity and correctness of order dated 30.04.2001 by which their services have been terminated by respondent No.3 herein.
2. Petitioners who are two in numbers have filed this writ petition

stating *inter alia* that they were appointed on regular basis on the post of Assistant Teacher by Bajrang Bal Mandir/Shahheed Veer Narayan Singh Primary/Middle School by order dated 01.08.1994 and 01.07.1996, respectively, and their services are governed by the provisions of the Madhya Pradesh Ashaskiya School Viniyam Adhiniyam, 1975, but their services were terminated by common order dated 30.04.2001.

3. Return has been filed by respondent No.3 opposing the writ petition stating *inter alia* that the petitioners were never appointed on any regular post but they were engaged on honorarium basis and as such they were neither appointed on the post nor holding any post therefore, on dis-engagement if any, they are not entitled to maintain the instant writ petition.

4. Mr. V. G. Tamaskar, learned counsel for the petitioners, would submit that the petitioners were appointed on regular basis by the respondent No.3, therefore, their services could not have been terminated by respondent No.3, without any show cause notice, or a formal departmental enquiry or, without assigning any reason and, therefore, the impugned order of termination is liable to be set aside.

5. Mr. Alok Bakshi, learned counsel for respondent No.3, would submit that the petitioners were never appointed on regular basis on the post of Assistant Teacher by respondent No.3, as they were engaged on payment of honorarium and as such, their dis-

engagement cannot be challenged in the writ petition.

6. I have heard learned counsel for the parties and also perused the records and considered their rival submissions.

7. The question for consideration would be whether the petitioners were appointed on the regular post of Assistant Teacher or they were engaged temporarily on honorarium basis.

8. In order to decide the said question, it would be appropriate to look into the appointment order issued to the petitioners which has been filed as Annexures P/1 and P/2 along with this writ petition. The typed copy of appointment letter issued to petitioner No.1 has been filed as Annexure P/1 in which she has been engaged as Assistant Teacher on honorarium basis *i.e.* ₹ 200/- per month. Petitioner No.2 has also been engaged on the basis of honorarium of ₹ 200/- per month which is clearly apparent from perusal of Annexure P/2. There is no other document brought on record on behalf of petitioners to establish that they were appointed on the regular post in accordance with the rules, rather it is established on record that they were engaged temporarily on honorarium basis and by order dated 30.04.2001 they have been dis-engaged which is said to be the order of termination of the petitioners.

9. Since, the petitioners were never appointed on any regular post, on regular basis, and they were temporarily engaged on honorarium

basis, their dis-engagement by order dated 30.04.2001 cannot be said to be the order of termination as they were not the holders of any regular post duly appointed in accordance with rules, therefore their dis-engagement cannot be said to be illegal, warranting interference by this Court under Article 226/227 of the Constitution of India and the writ petition deserves to be and is accordingly dismissed, leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge