

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5610 of 2017**

- Smt. Suman D/o Motilal Ahir Aged About 32 Years R/o Anujnagar, Block & District Surajpur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Development, Mantralaya, Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh
2. Commissioner, Tribal Development, Indrawati Bhawan, New Raipur (Chhattisgarh).
3. Collector, Surajpur, District Surajpur Chhattisgarh
4. Assistant Commissioner, Tribal Development Surajpur, District Surajpur Chhattisgarh
5. District Education Officer, Surajpur, District Surajpur Chhattisgarh
6. Block Education Officer, Bhaiyathan, District Surajpur Chhattisgarh
7. Head Master, Govt. Higher Secondary School, Anujnagar, Block & District Surajpur Chhattisgarh

8. ---- Respondent**And****WPS No. 5621 Of 2017**

- Smt. Khushbu @ Kholi Bai D/o Alam Sai Aged About 26 Years R/o Gawatiyapara, Anujnagar, Block & Distric Surajpur Chhattisgarh.

---- Petitioner**Vs**

1. State Of Chhattisgarh Through The Secretary Department Of Tribal Development Mantralaya, Mahanadi Bhawan Naya Raipur Distict Raipur Chhattisgarh.
2. Commissioner, Tribal Development , Indrawati Bhawan Naya Raipur Chhattisgarh.

3. Collector, Surajpur District Surajpur Chhattisgarh.
4. Assistant Commissioner , Tribal Development Surajpur District Surajpur Chhattisgarh.
5. District Education Officer, Surajpur District Surajpur Chhattisgarh.
6. Block Education Officer, Bhaiyathan District Surajpur Chhattisgarh.
7. Head Master, Government Primary School, Gawatiyapara, Anujnagar, Block & District Surajpur Chhattisgarh.

---- Respondent

For Petitioners	Ms Meena Shastri, Advocate.
For Respondents/State	Shri Ramakant Mishra, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

30/10/2017

1. Heard.
2. These petitions have been filed by the Part-Time Sweeper working in the district Surajpur, whose services have been discontinued in the year 2012.
3. 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 petitions herein are identically situated as the petitioners in those petitions, because the petitioners were also Part-Time Sweeper and on similar consideration which weighed at the time of termination of petitioners in above referred petitions, the petitioner

was also discontinued from service.

4. Learned counsel for the petitioners submits that the Part-time Sweepers are low rank of employees and very meagerly paid. Therefore, in these circumstances, these petitions may be finally disposed off with a direction to respondents to examine the case of the petitioners and on parity, similar relief may be granted in the case of the petitioners.
5. In a batch of petitions filed by the Part-Time Sweepers working in various schools, this Court had an occasion to examine the correctness of decision taken by the authority towards en masse termination of Part-Time Sweepers. The reasons assigned for en masse 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/ headmasters 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 master 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 is 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 held the post, being only part time sweeper.”

4. Prima facie, these petitioners also seem to be affected by the en masse termination while working on similar consideration.

5. 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.

6. In view of the above consideration, respondent No.2/Assistant Commissioner Tribal Development, shall examine the case of petitioner and verify facts. If the petitioners are similarly situated as the petitioner 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 petitioner is very low-paid employee, Assistant Commissioner, Tribal Development/respondent No.2 shall complete the exercise within a maximum period of 90 days from the date of receipt of copy of this order.

7. If the petitioners' grievance are not redressed/fully redressed, they will be at liberty to revive the petition.

Sd/-

Judge

Prashant Kumar Mishra

Akhilesh