

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 2668 of 2017**

Sahid Khan S/o Shri Sahajuddin Khan, aged about 31 years,
Occupation: Ex Part Time Sweeper, at Government Primary School
Manpur, R/o Village Manpur (Kotya) Post Salka Police Station & Tahsil
Bhaiyathan, District- Surajpur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh through: the Secretary Director, Tribal Welfare
Department Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh
2. The Collector, District Surajpur, Chhattisgarh (Tribal Development)
3. The District Education Officer, Surajpur, District Surajpur, Chhattisgarh
4. The Assistant Commissioner, Tribe Development, Surajpur, District-
Surajpur, Chhattisgarh
5. The Block Education Officer, Bhaiyathan, District Surajpur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri R. V. Rajwade, Advocate
For Respondent/State	:	Shri Rajendra Tripathi, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****23/06/2017**

At the outset, learned counsel for the petitioner submits that the petitioner has filed this petition seeking direction for consideration of his case 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.

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 petitioner.

3. It is found that the petitioner is also the Part-Time Sweeper working in the Govt. Primary/Middle Schools of District Surajpur and his services were discontinued in the year 2012.

4. This petition filed by Part-Time Sweeper 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 petitioner 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 is similarly situated as the case of those petitioners who had earlier approached this Court and in whose favour, common order was passed on 09.09.2015.

7. In view of the above consideration, respondent -Assistant Commissioner, Tribal Development, Surajpur, shall individually examine the case of the petitioner and verify facts. If the present petitioner is 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 the present petition.

Considering that the petitioner is 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 petitioner's grievance is not redressed/fully redressed, he will be at liberty to revive his petition.

**Sd/-
(P. Sam Koshy)
JUDGE**