

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No.26490 of 2015 (O&M)

Date of Decision: 10.03.2017

Sunita Sharma and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kapil Kakkar, Advocate
for the petitioners.

Mr. Pankaj Mulwani, DAG Punjab.

JAISHREE THAKUR, J. (Oral)

The petitioners herein claim regularization on the post of Social Development Facilitator having worked with the department since the year 2000.

It is submitted that petitioners were initially appointed for a period of one year on contractual basis and thereafter, given extension each year. It is claimed that the petitioners were allowed to work under a project namely JBIC, which project continued uptill the year 2010 and thereafter, the services of the petitioners were transferred to the various departments. A writ petition was filed bearing CWP No.4903 of 2015, in which, it was claimed that the petitioners had submitted a legal notice, claiming

regularization, but the same was still pending consideration. The aforesaid writ petition was disposed of vide order dated 19.03.2015, in which, a specific direction was given to the respondents to consider the claim of the petitioners. Since the matter was not being considered despite orders of this court, a contempt petition came to be filed. During the pendency of the contempt petition, order dated 03.11.2015 came to be passed, in which, apart from noticing the contentions as raised in the legal notice, a conclusion was drawn that ***“the petitioners have neither been engaged by the department on contractual basis as Social Development Facilitator nor there exists any post of Social Development Officer in the department. Hence, legal notice dated 18.12.2014 (Annexure P-11) after considered in depth is hereby rejected being devoid of merit.”*** Aggrieved against this rejection of their demand, the instant writ petition has been filed.

Mr. Kapil Kakkar, Learned Advocate, appearing on behalf of the petitioners contends that the rejection order is totally non-speaking and has not taken note of the various documents that were supplied to the authorities concerned, which would show that these are letters addressed by DFO Pathankot to the Conservator of Forest, Shivalik Circle, Punjab, Chandigarh, addressing petitioners herein as Facilitators. Moreover, identity cards too have been issued by the State Govt. of Punjab, which would again show that their designation is that of Facilitator. Reliance has also been placed upon Annexure P-24, wherein, the DFO Punjab is referring to one of the petitioner namely Sunita as a Facilitator, who has worked in the Division since October 2008 to October 2015 under various schemes. Therefore, it is argued that the conclusion drawn is wholly erroneous,

without referring to any of the document supplied.

Per contra, Mr. Pankaj Mulwani, learned DAG Punjab, appearing on behalf of the respondents-State contends that as per Annexure P-1 itself, the petitioners were engaged on contractual basis against the post of a Facilitator under a project founded by the World Development Bank on a consolidated remuneration of Rs.7000/- per month. Thereafter, on the completion of the project, they were placed under another project founded by the Japan Bank called "Punjab Afforestation Project" was assigned to a consultancy agency namely Earth Care Pvt. Ltd. New Delhi for a period of three years and thereafter, they have been assigned to work under a project called Puncampa Scheme. It is argued that none of the salaries or emoluments are being discharged by the Government, but they are being released on account of fund by the various World Bank/Japan Bank etc. and therefore, there is no lien with the department for the petitioners to be considered for regularization.

I have heard learned counsel for the parties.

A perusal of the writ petition shows that the petitioners, though being paid salary through various projects, the effective control over their work is with the State, as is evident from Annexures P-20, P-21 and P-25. These annexures on the record would show that one of the petitioner namely Sunita, Facilitator, is working with the Department of Forest and Welfare Conservation o/o Chief Conservator of Forest. Letter Annexure P-21 is a letter addressed by the DFO Dasua proposing to initiate action against the petitioners for not complying with the orders, which might be indicative that the services of the petitioners herein is being utilized by the State Govt. for

work other than the project. The impugned order passed does not take note of any of these communications which are on the record.

In view of the above, the impugned order is set aside with a direction to the respondents-State that a fresh order be passed in this regard, by taking into account the arguments as raised in the writ petition. Before passing any orders, the petitioners should be given an opportunity of personal hearing.

Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

The writ petition stands disposed of accordingly.

March 10, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No