

HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P.S. NO. 6041 OF 2016**

1. Devendra Giri Goswami, S/o Hari Giri Goswami, Aged About 45 Years, Occupation- Pump Operation at Nagar Panchayat, Sarangarh, Raja Para, Sarangarh, District Raigarh (CG)
 2. Damodar Puri Goswami, S/o Shri Ghanshyampuri Goswami, Aged About 40 Years, Occupation- Pump Operator at Nagar Panchayat, Sarangarh, Rajapara, Sarangarh, District Raigarh (CG)
 3. Shatrughan Lal Yadav, S/o Mahantram Yadav, Aged About 43 Years, Occupation- Pump Operator at Nagar Panchayat, Sarangarh, District Raigarh (CG)
 4. Mahendra Singh Izardar, S/o Shri Holi Ram Izardar, Aged About 47 Years, Occupation- Pump Operator at Nagar Panchayat, Sarangarh, District Raigarh (CG)
 5. Govind Thawait, S/o Late Shri Bharat Lal Thawait, Aged About 44 Years, Occupation Service, posted at Nagar Panchayat, Sarangarh, District Raigarh (CG)
- ... Petitioners**

versus

1. State of Chhattisgarh, through the Principle Secretary, Department of Urban Administration and Development, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
2. The Under Secretary, Government of Chhattisgarh Department of Urban Administration and Development, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
3. Joint Director, Department of Urban Administration and Development, Bilaspur, District Bilaspur (CG)
4. Nagar Panchayat, Sarangarh, District Raigarh (CG) ... **Respondents**

For Petitioners	:	Mr. Awadh Tripathi, Advocate.
For Respondents 1, 2 & 3	:	Mr. Dheeraj Wankhede, Govt. Advocate.
For Respondent 4	:	Mr. Akhilesh Kumar, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/08/2018**

1. The present case is a classic example of the arbitrariness and highhandedness on the part of the respondents, particularly the respondent no.3.
2. The petitioners in the present case have been working with the respondents since 1992 as daily wage employees. They had filed a writ petition in 2010 vide W.P.S. No. 6612/2010 claiming for regularization in services in the light of the circular of the State Government dated 5.3.2008. The said writ petition stood allowed vide order dated 18.2.2011. The operative part of the order dated 18.2.2011 is reproduced herein under:

“1. At the very outset, learned counsel appearing for the parties jointly and fairly submit that the issue involved in the present petition as well as in *Dhaniram & Others v. State of Chhattisgarh & Others*, W.P.(S) No. 6798 of 2010, decided on 20.01.2011, which was considered and decided by this Court on 20.1.2011, are identical. Thereafter, the said issue was re-considered in *Virendra Das Manikpuri & Others v. The State of Chhattisgarh & Others*, W.P.(S) No. 7450 of 2010, decided on 10.02.2011. Thus, the instant petition is squarely covered by the orders passed by this Court in *Dhaniram & Others* and *Virendra Das Manikpuri & Others*.

2. In view of the submission made by learned counsel for the parties, this petition is disposed of in terms of the orders passed in *Dhaniram & Others* and *Virendra Das Manikpuri & Others*.”

3. Since there was a non-compliance of the said order, the petitioners were forced to file a contempt case vide Contempt Case (C) No.130/2011 which stood disposed of in the light of the instructions brought before the Court wherein it was shown that the case of the petitioners was pending consideration before the higher authorities for compliance. The said contempt petition was accordingly disposed of.

4. Yet, since the order was not complied with for some more time, another contempt case was filed vide Contempt Case (C) No. 225/2011 and the notices were issued to the respondents and the contemnors appeared before this Court and tendered their unconditional apology on 22.6.2012. This Court while taking into consideration the entire facts and circumstances of the case disposed of the said contempt petition on 22.6.2012 after giving a warning to the respondents. The observations made by this Court vide order dated 22.6.2012 are reproduced as under:

“6. In the opinion of this Court, justification provided for not complying the order of the Court is wholly unsustainable and cannot be accepted. Compliance of the order of the Court could not be delayed or deferred on such basis. Once an order of the Court is passed, the respondent was obliged to consider the matter and take appropriate steps towards compliance of the order. Despite clear legal opinion, respondent deferred compliance of the Court order by seeking instructions from the higher authorities. The act of the respondent, therefore, cannot be said to be just and proper and it has to be held that respondent unnecessarily indulged in communication with the higher authorities.

7. It is informed that later on, respondent was transferred vide order dated 12.9.2011, therefore, further steps could not be taken. Instructions were sought from the Govt. vide memo dated 22.3.2011 (Annexure C-6) and for almost 6 months, no steps were taken by the respondent towards compliance of the order of the Court. This conduct of the respondent cannot be countenanced.

8. Learned counsel for the respondent submits that the respondent has prayed for unconditional apology. He submits that the circumstances of the case reveal that respondent only sought instructions from the Govt. before passing any order in the matter without there being any intention to flout the order of the Court.

9. Taking into consideration the submissions made by learned counsel for the parties, though this Court finds that respondents did not take proper steps towards compliance of the order of the Court, the apology tendered by respondent is accepted, particularly, taking into consideration that respondent had sought legal opinion and had also sought instructions from the Govt. in the matter, though such action of seeking instructions was unwarranted. However, respondent is warned that such conduct shall not be repeated in future and respondent shall remain cautious and careful in the matter of compliance of orders of the Court of law, instead of indulging in unnecessary communications with higher authorities. In future, repetition of such conduct of respondent shall be viewed strictly.”

5. Further, it reflects that subsequent to the disposal of the aforesaid contempt petition, the respondents have forwarded the name of the petitioners and similarly placed persons for regularization. Thereafter, no decision till date has been taken.

6. This Court fails to understand as to what prevents the respondents from taking a prompt decision in the case of the petitioners, particularly when there are specific instructions and directions repeatedly being given by this Court. In spite of the fact that this Court on an earlier occasion after issuing a warning observed that non-compliance would be viewed strictly yet the respondents till date have not taken any decision in the case of the petitioners.

7. Learned counsel for the petitioners also submits that all along the petitioners even till date have been discharging their duties to the utmost satisfaction of the officers of the department and it is more than 25 years that the petitioners have been working with the respondents under the bona

fide legitimate expectation of being regularized, particularly in the light of the circular dated 5.3.2008 and also the observations made by this Court in the previous round of litigations both in the writ jurisdiction as well as in the contempt jurisdiction.

8. Given the aforesaid facts and considering the aspect that the claim of the petitioners till date has not been finalized, this Court does not intend to keep the present writ petition pending any further, rather, ends of justice would serve if the writ petition is allowed and disposed of with a clear direction to the respondents no. 2, 3 & 4 to take necessary instructions at the earliest ensuring consideration of the petitioners for regularization keeping in view of the circular of the State Government dated 5.3.2008 and also the observations and directions given by this Court in the aforementioned writ petition and contempt petitions decided on earlier occasions.

9. Let this exercise be concluded within an outer limit of 60 days from today.

10. The writ petition stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge