

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1512 of 2018

1. Bans Gopal S/o. Jagarnath, Aged About 30 Years Occupation- Service (Part Time Sweeper) At Government Higher Secondary School Odagi, Post And Tehsil Odagi, District Surajpur (Chhattisgarh), R/o. Village Paldanouli, Post And Tahsil Odagi, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
2. Loli Rajwade, W/o. Rohani Rajwade, Aged About 28 Years Occupation Service (Part Time Sweeper) At Government Higher Secondary School Odagi, Post And Tehsil Odagi District Surajpur Chhattisgarh, R/o. Village Kechhavi Para, Village Panchayat Kharra, Post And Tehsil Odagi, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
3. Rajjulal, S/o. Sukhdeo, Aged About 33 Years Occupation Service (Part Time Sweeper) At Government Boys Middle School Odagi, Post And Tehsil Odagi, District Surajpur (Chhattisgarh), R/o Village Bilaspur, Post And Tehsil Odagi, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
4. Shyamu, S/o. Baghun Ram, Aged About 35 Years Occupation Service (Part Time Sweeper) At Government Primary School Biranpara (Mashnaki), Post And Tehsil Odagi, District Surajpur (Chhattisgarh) R/o Village Mashnaki, Post And Tehsil Odagi, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
5. Sukharaj Pando, S/o. Kishun Pando, Aged About 28 Years Occupation Service (Part Time Sweeper) At Government Primary School Saraidah (Mashnaki), Post And Tehsil Odagi, District Surajpur (Chhattisgarh), R/o. Village Saraidaha (Mashnaki), Post And Tehsil Odagi, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Tribal Development Department, Mahanadi Bhawan Naya Raipur, Revenue And Civil District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Commissioner, Scheduled Caste And Scheduled Tribe Development, Naya Raipur, Revenue And Civil District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. Assistant Commissioner, Tribal Development Department, Surajpur, Revenue And Civil District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh
4. Collector (Tribal Development), Surajpur, Revenue And Civil District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh
5. The Block Education Officer, Bhaiyathan, Revenue And Civil District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
6. District Education Officer, Surajpur, Revenue And Civil District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh

---- Respondents

Shri Surfaraj Khan, counsel for the petitioner/s.
Shri Chandresh Shrivastava, Panel Lawyer for the State.

Hon'ble Shri Justice P. Sam Koshy
Order On Board

19/02/2018

This petition has been filed by the Part-Time Sweepers working in different primary schools in District - Surajpur whose services have been discontinued.

2. At the outset, learned counsel for the petitioners submits that 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 petitioners herein are identically situated as the petitioners in those petitions because the petitioners were also Part-Time Sweepers appointed in primary school in the same district i.e. Surajpur and on similar consideration which weighed at the time of termination of the petitioners in above referred petitions, these petitioners were also discontinued from service.

Learned counsel for the petitioners submits that the Part Time Sweepers are low rank of employees and very meagerly paid. Therefore, in these circumstances, this petition 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.

3. In a batch of petitions filed by Part-Time Sweepers working in various schools in the same district where the petitioners were also working as Part-Time Sweeper, this Court had an occasion to examine the correctness of the 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 infact 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.”

4. *Prima facie*, these petitioners also seem to be affected by the enmass termination while working in the same district and 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 - Assistant Commissioner, Tribal Development, Surajpur shall individually examine the case of the petitioner and verify facts. If these petitioners are 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 these petitioners.

7. Considering that the petitioners are 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.

If the petitioners' grievance is not redressed/fully redressed, they will be at liberty to revive their petitions.

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