

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5454 of 2019

Kulwant Xalxo, S/o Manuel Xalxo, Aged About 29 Years, Working As Guest Faculty (Commerce) At Govt. Navin College, Kamleshwarpur (Mainpat), District- Surguja, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Higher Education, Mahanadi Bhawan, Mantralaya, Atal Nagar, District- Raipur, Chhattisgarh
2. Additional Director, Directorate Of Higher Education Department, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
3. Principal, Govt. Navin College, Kamleshwarpur (Mainpat), District- Surguja, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Nishi Kant Sinha, Advocate
For State	:	Ms. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri
Order on Board

29/07/2019

1. It is contended on behalf of the petitioner that the petitioner was working as a Guest Lecturer under the respondent no.3 for the Academic year 2018-19. The academic session has come to an end in February, 2019 and therefore, the respondents should not be permitted to replace the petitioner by another set of contractual Guest Lecturers. It is further stated by the learned counsel for the petitioner that the petitioner has undergone a due process of selection for being appointed as a Guest Lecturer and that the services of the petitioner also were satisfactory and there is no complaint whatsoever with respect to the merit of the

petitioner. He further submits that a similar issue has been decided by this Court in WPS No. 5050 of 2019 on 10.07.2019 and the issue of this writ petition is squarely covered by the judgment rendered in that case.

2. State counsel also does not oppose the same as the similar issue has been decided by this Court.

3. The Court in WPS No.5050 of 2019 has passed the following order:

“5.Further from the records, it also does not appear that the performance of the petitioner, at any point of time, was found to be unsatisfactory. In the case of “**Manju Gupta**” (supra), this Court in paragraphs No. 8 to 11 has held as under:-

“8. True it is, that the Petitioners' status is that of a Guest Lecturer but that does not mean that they do not have any right. There is always a legitimate expectation of the Petitioners that since the filling up of the posts has not been initiated by way of a regular appointment or by contractual appointments, the Petitioners would be permitted to continue.

9. The undisputed fact is that the Petitioners were given appointment only on undertaking given by them pursuant to an advertisement by the Respondents. In the undertaking which was made to be furnished by the Petitioners, they were made to undertake that their appointment would be till the posts are filled up by regular/contractual appointment. This by itself clearly gives an indication that unless the Respondents fill up the sanctioned vacant posts by either regular recruitment or by way of contractual appointment, the Petitioners would continue as Guest Lecturers. On the practical aspect also the fact that the Petitioners are discharging the duties of Guest Lecturers for last more than 1-2 years, itself is a good ground for permitting the Petitioners to continue on the said posts as Guest Lecturers, simply for the reason of their experience on the said post, as fresh recruitment would mean that persons with no or less experience would be participating in the recruitment process, which also would not be in the interest of the students who are undertaking training in the respective institutions.

10. Taking into consideration the decision of the Supreme Court in the case of Piara Singh (supra) and which has been further reiterated in the case of Dr. Chanchal Goyal (supra), this Court has no hesitation in reaching to the conclusion that the advertisement (Annexure P-1) so issued by the Respondents is definitely not in the interest of the students undertaking training at Industrial Training Institute, Ambikapur, and the same would amount to

violation of Article 21 of the Constitution of India and the same therefore deserves to be and is accordingly quashed. The advertisement would be deemed to be quashed only to the extent of the recruitment against the posts at which the Petitioners are discharging. That is to say, the Respondents would be entitled to fill up the posts which are lying vacant by way of Guest Lecturers where there are no Guest Lecturers available.

11. It is directed that the Respondents would not be entitled for filling up the posts of Guest Lecturer by replacing the Petitioners unless the Respondents come up with a stand that the services of the Petitioners were dissatisfactory. The quashing of the advertisement issued by the Respondents would also not come in the way of the Respondents for filling up of the sanctioned vacant posts by regular recruitment or by way of contractual appointment for which the Respondents shall be free.”

7. This Court, under the given circumstances, is inclined to accept the same analogy in the case of the petitioner also and accordingly it is ordered that unless there is any complaint received against the performance of the petitioner, the respondents are restrained from going in for any fresh recruitment of a Guest Lecturer for the said subject under the respondent No. 3-college against which the petitioner was engaged.

8. It is however made clear that the protection to the petitioner would be only to the extent of not being replaced by another set of Guest Lecturers. This would not preclude the State Government from going in for filling up of the post by way of regular appointment or by way of engaging contractual teachers under the rules for contractual employment.

9. So far as the claim of remuneration as per the guidelines of the UGC is concerned, it would be open for the petitioner to make a suitable representation before the respondent No. 1 in this regard, who in turn would take a policy decision regarding remuneration part payable to the Guest Lecturers, keeping in view the guidelines, that have been laid down by the UGC.

10. With the aforesaid observations, the present writ petition stands disposed off.”

4. It is ordered accordingly. Accordingly, the present Writ Petition also stands disposed off in similar terms as passed in the Writ Petition (S) No. 5050 of 2019. The right of the petitioner shall also be governed by the aforesaid direction.

**Sd/-
(Goutam Bhaduri)
Judge**