

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6002 of 2019**

1. Sewak Ram Chakradhari, S/o Jagdish Chakradhari, Aged About 45 Years, R/o Village Khurshipar, Post Salebhata, Tahsil - Baghbhara And District - Mahasamund, Chhattisgarh
2. Bharti Sahu, W/o Shri Radheshyam Aged About 31 Years R/o Village Sirri, Post And Tahsil - Baghbhara, District - Mahasamund, Chhattisgarh
3. Hema Sahu, W/o Shri Dilip Sahu Aged About 43 Years R/o Village Ghoy nabahara, post - Khomakhan, Tahsil - Baghbhara And District - Mahasamund, Chhattisgarh
4. Sevti Sinha, W/o Shri Chhabi Lal Sinha Aged About 39 Years R/o Village Mohba Post Ganjar, Tahsil - Baghbhara, District - Mahasamund, Chhattisgarh
5. Harish Kumar Sahu, S/o Shri Kaliram Sahu Aged About 41 Years R/o Ward No. 2, Village Bihajhar, Tahsil Baghbhara, District - Mahasamund, Chhattisgarh
6. Pokhraj Sahu, S/o Shri Kunjram Sahu Aged About 34 Years R/o Village - Bidora, Post - Bakma, Tahsil - Baghbhara, District - Mahasamund, Chhattisgarh
7. Purshottam Kumar Patel, S/o Arjun Singh Patel Aged About 31 Years R/o Ward No. 10, Kotanpali, Tumgaon, Tahsil - Baghbhara, District - Mahasamund, Chhattisgarh
8. Uma Soni, W/o Arjun Soni Aged About 49 Years R/o Ward No. 15 Komakhan Tahsil Baghbhara District Mahasamund, Chhattisgarh
9. Dinesh Tamboli, S/o Shri Dhaniram Tamboli Aged About 48 Years R/o Ward No.18, Behind Ram Mandir, Kurmeepara, Mahasamund, Tahsil And District - Mahasamund, Chhattisgarh
10. Megnath Patel, S/o Shri Gada Ram Patel Aged About 47 Years R/o Medhapali Tahsil Basna, District - Mahasamund, Chhattisgarh

11. Gourchandra Pradhan, S/o Shri Sita Ram Pradhan, Aged About: 45 Years, R/o Ward No. 2 Bichiya, Tahsil - Basna, District - Mahasamund, Chhattisgarh

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Versus

- 1.** State Of Chhattisgarh Through The Secretary, Department Of Labour, Mahanadi Bhawan, Mantralaya, Naya Raipur, District - Raipur, Chhattisgarh
- 2.** Building And Other Construction Workers Welfare Board Through Its Secretary, Office Complex, Ekatm Path, Sector-24, Atal Nagar, Raipur, Chhattisgarh

... Respondent(s)

For Applicant	:	Mr. Siddharth Rathod, Advocate
For State	:	Ms. Abhyunnati Singh, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13.08.2019

- 1.** The challenge in the present Writ Petition is to the order Annexure P-1 dated 13.02.2019 and the order Annexure P-9 dated 20.12.2018.
- 2.** Vide the impugned order Annexure P-1, the engagement of the petitioners as "Shram Mitra" under the Shram Mitra Yojna, a scheme formulated under the Chhattisgarh Building and Other Construction Workers (Regulations of Employment and Condition of Service) Rules 2008, hereinafter referred as the Rules of 2008.
- 3.** At the outset, this Court is not inclined to entertain the Writ Petition for the reason that, there is no employer employee relationship between the petitioners and the respondents. Moreover, the petitioners have been made Shram Mitra by way of nomination. There is no order of appointment, there is no fixed tenure, there is

no salary as such attached/fixed for the said post. Neither have the petitioners been subject to any sort of recruitment process before being nominated as Shram Mitra.

4. The Counsel for the Petitioners relied upon a couple of decisions rendered by the Supreme Court (1998) 9 SCC 258, (1988) 2 LLJ 333, (2008) 2 JT 237, (1996) 7 SCC 562 and 2011 Vol. 9 SCC 286 in the case of ***Andhra Pradesh Dairy Development Corporation Federation vs. B. Narasimha Reddy & Ors.***
5. A plain perusal of the factual matrix of the case under which those Judgments have been laid down by the Supreme Court would show that, those who were under entirely different contextual backdrop and the facts of the present case, the status of the petitioners in the present case, mode of nomination of the present petitioners were entirely different than those in the aforesaid Judgment.
6. Moreover, perusal of the records would show that, Annexure P-9 is a Policy Decision of the State Government itself, whereby they have decided that, all sort of engagement by way of nomination has to be canceled forth-with. The said being the policy decision, the same cannot be said to be either arbitrary or bad-in-law.
7. The only apprehension and the ground that the petitioners have raised strongly is that for appointment as Shram Mitra, the respondents would have to adopt the same process which has already been undertaken by the department at one point of time while engaging the petitioners, therefore, the petitioners unless they are discontinued on account of unsatisfactory work or misconduct, they should not be replaced by another set of similarly placed

persons. This contention of the petitioners may not be sustainable for the reason that, it does not appear that the petitioners have been subjected to any selection process or have undergone any recruitment process, as such the engagement of the petitioners seem to be purely on nomination basis and under the circumstances, the petitioners may not have any indefeasible right conferred upon or attached to the post which the petitioners were holding.

8. The present Writ Petition, thus fails and accordingly rejected.

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