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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 6403 of 2018

1. Ranjana Rohit D/o Shri Parasnath Rohit, Aged About 27 Years, Occupation-Guest Faculty (Subject Sociology) Government Larangsai Graduate College Ramanujganj District- Balrampur Ramanujganj, Chhattisgarh.
2. Anuradha Bhagat D/o Shri Shivnath Prasad Bhagat Aged About 26 Years Occupation Guest Faculty (Subject Biology) Government Larangsai Graduate College Ramanujganj District- Balrampur, Ramanujganj, Chhattisgarh.
3. Ajay Kumar Rajwade S/o Shri Sohan Ram Rajwade Aged About 28 Years Occupation Guest Faculty (Maths-Subject) Government Larangsai Graduate College Ramanujganj District- Balrampur, Ramanujganj, Chhattisgarh.
4. Umesh Kumar Gupta S/o Shri Dev Kumar Gupta Aged About 29 Years Occupation-Guest Faculty (Zoology Subject) Government Larangsai Graduate College Ramanujganj District- Balrampur, Ramanujganj, Chhattisgarh.
5. Shailesh Kannoja S/o Shri Rambachan Kannoja Aged About 28 Years Occupation-Guest Faculty (Social Science Subject) Government College Balrampur District- Balrampur, Ramanujganj, Chhattisgarh.
6. Naman Kumar Rohila S/o Shri Sushil Rohila Aged About 27 Years Occupation Guest Faculty (Geography Subject) Government Graduate College Odgi District- Surajpur, Chhattisgarh.

---- Petitioner(s)

versus

1. State Of Chhattisgarh Through Principle Secretary, Department Of Higher Education, Mantralaya, Indiravati Bhawan, New Raipur, Chhattisgarh.
2. The Commissioner Higher Education, Block C-3, 2nd And 3rd Floor, Indravati Bhawan, New Raipur, District- Raipur, Chhattisgarh.
3. Principal Government Larangsai Graduate College Ramanujganj District- Balrampur, Ramanujganj, Chhattisgarh.
4. Principle Government College Balrampur District- Balrampur, Ramanujganj, Chhattisgarh.
5. Principle Government Graduate College Odgi District- Surajpur, Chhattisgarh.

---Respondents

For Petitioners	:	Shri Aditya Chopra, Advocate.
For State	:	Shri Chandresh Shrivastava, Dy. A.G. with Shri Anshuman Shrivastava, P.L.
For Intervener	:	Mr. Ghanshyam Kashyap, Advcoate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26.07.2019

1. The grievance of the petitioners in the present writ petition is that since the petitioners were working as a Guest Lecturer under the respondent No.3 to 5 colleges for the academic year 2017-18 and their academic session has come to an end, the respondents should not be permitted to replace the petitioners by another set of contractual Guest Lecturers.
2. By virtue of an interim order passed by this Court on 27.9.2018, the petitioners are still working with the respondents (subject to verification of the fact that the petitioners are still working with the respondents by virtue of the said interim order).
3. The contention of the petitioners is that the petitioners have undergone a due process of selection for being appointed as a Guest Lecturer and that the services of the petitioners also were satisfactory as there is no complain whatsoever so far as the competency of the petitioners is concerned. It is further the contention of the petitioners that now that the academic session is over, the respondents should not be permitted to go in for a fresh recruitment process for filling up of the posts of Guest Lecturers under the respondent No.3 to 5 colleges for the subject in which the petitioners were taking classes.
4. Counsel for the petitioners relies upon the judgment of this Court passed in the case of **“Manju Gupta & others v. State of Chhattisgarh & others” WPS No. 4406/2016**, decided on 27.02.2017, whereby the similarly placed Guest Lecturers under the Director (Industrial Training Institute) have been granted protection from being replaced by another set of Guest Lecturers.
5. The State counsel opposing the petition submits that it is a case where no cause of action has till date arisen, in as much as the petitioners have filed

the writ petition only on apprehension and since there is no cause of action, the matter is premature and deserves to be rejected.

6. Having heard the contentions put forth on either side and on perusal of record, what is admitted is that the petitioners were appointed vide Annexure P/1. The order of appointment specifically had a clause mentioning that the appointment so made are till an alternative arrangement is made by way of regular recruitment/contractual/ transfer.
7. Further from the records, it also does not appear that the performance of the petitioners, 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 dis-satisfactory. The quashment 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.”

8. This Court, under the given circumstances, is inclined to accept the same analogy in the case of the petitioners also and accordingly it is ordered that unless there is any complain received against the performance of the petitioners, the respondents are restrained from going in for any fresh recruitment of a Guest Lecturer for the said subject under the respondent colleges against which the petitioners were engaged.
9. It is however made clear that the protection to the petitioners 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 a regular appointment or by way of engaging contractual teachers under the rules for contractual employment.
10. 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, so far as the remuneration part payable to the Guest Lecturers, keeping in view of the guidelines, that have been laid down by the UGC.

- 11.** However, at this juncture, an objection has been raised by the intervener Seema Bara that so far as the petitioner no.2 Anuradha Bhagat is concerned, there has been a material suppression of fact by the said petitioner Anuradha Bhagat. According to the intervener Seema Bara, she got an appointment on the post of Guest Faculty in subject Botany at respondent no.3 college i.e. Government Larangsai Graduation College, Ramanujganj, District Balrampur Ramanujganj. The said intervener immediately joined services and she continued to service till October, 2018 when she was orally discontinued in the light of the some orders passed by the State Government on 9.10.2018. Contention of the intervener is that, the fact that the said petitioner as well as the intervener having participated in the recruitment process, has not been disclosed. It was further contended by the intervener that once when the petitioner Anuradha Bhagat had participated in the recruitment process, she could not have been filed a writ petition subsequently after having been declared unsuccessful in the recruitment process for the academic session 2018-19. Further, the contention of the intervener is that, the fact that the intervener has been appointed and she has joined the services, was not disclosed by the petitioner before the Court while obtaining the interim relief. It was also not reflected in the writ petition that it was filed much after the intervener had joined the services and for all these reasons, the petitioner Anuradha Bhagat does not deserve to get any relief.
- 12.** Given the aforesaid facts and circumstances, since there is a lapse on the part of the petitioner no.2 Anuradha Bhagat of not disclosing the correct facts to the Court at the time of obtaining the interim relief and also taking note of the fact that the academic session for which the intervener Seema Bara was appointed also having been completed by now, the only remedy which could be granted by this Court would be that so far as the

appointment of Guest Faculty in the respondent no.3 college i.e. Government Larangsai Graduation College, Ramanujganj, District Balrampur Ramanujganj, for subject Botony is concerned, the college authorities would be at liberty to have a fresh recruitment conducted for the post of Guest Faculty for Botony subject wherein the petitioner Anuradha Bara and the intervener Seema Bara both subject to their fulfilling the requisite eligibility criteria would be permitted to participate in the recruitment process along with other candidates whoever apply and the most meritorious candidate would be selected in the recruitment process for the next session. The liberty granted to respondent no.3 college is only subject to the requirement of the said post by way of Guest Faculty.

- 13.** With the aforesaid observations, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

/sharad/