

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WRIT PETITION (S) NO. 7370 OF 2019**

• Priyanka Yadav, S/o Surendra Yadav, aged about 29 years, R/o Ward No.14, Vrindavan Kailash Nagar, near Jankalyan Hospital, Kurud, Bhilai, District Durg (CG), occupation -Guest Faculty (Hindi) at Government Adarsh College, Durg (CG) **... Petitioner**

**versus**

1. State of Chhattisgarh, through its Secretary, Higher Education Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur (CG)
2. Additional Director, Directorate of Higher Education Department, Atal Nagar, Raipur (CG)
3. Principal, Government Adarsh College, Durg (CG) **... Respondents**

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| For Petitioner       | : | Mr. Prasoon Agrawal, Advocate.     |
| For Respondent-State | : | Mr. Ashutosh Mishra, Panel Lawyer. |

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**Hon'ble Shri Justice P. Sam Koshy****Order on Board****17/09/2019**

1. At the outset, counsel for the petitioner submits that he has moved an application for amendment in the present writ petition to brought on record the advertisement dated 12.9.2019 (Annexure P-5) whereby the respondents subsequently have initiated steps for filling up of the posts of Guest Lecturers by engaging fresh set of Guest Lecturers.
2. Considering the facts of the case, the said application is allowed.
3. Let necessary amendment for bringing on record the advertisement dated 12.9.2019 (Annexure P-5) be carried out by the petitioner during the course of the day itself.
4. With the consent of the parties, heard the matter finally at admission stage itself.
5. The petitioner in the present writ petition primarily was aggrieved by the decision of the State Government, dated 9.10.2018 (Annexure P-1), whereby the State Government as a precautionary measure has directed the concerned Principals of the Government Colleges not to appoint any Guest Faculty in respect of those subjects where in previous years the arrangement was being made by way of Guest Faculty.
6. So far as the order dated 9.10.2018 (Annexure P-1) is concerned, the instruction so issued by the State Government appears to be in the light of some

directions given by this Court in a couple of writ petitions, the leading of which being Writ Petition (S) No. 4938 of 2018, which came up for hearing before this Court and where this Court had granted interim relief on 31.7.2018.

**7.** According to the counsel for the petitioner, the petitioner had already been granted appointment and by virtue of appointment she is still discharging her duties. Contention of the counsel for the petitioner is that the college in which the petitioner is working and also the subject which the petitioner is teaching, there is no litigation inasmuch as there is no writ petition against the said college as also against the subject in which the petitioner is teaching. It is the further contention of the counsel for the petitioner that the order dated 9.10.2018 is only an order passed by the department to avoid a situation of contempt of Court. According to the counsel for the petitioner, the contempt of Court would arise only in the event of there being a specific direction or a writ issued against a particular college or against a particular subject, which in the instant case does not exist.

**8.** This fact is not disputed by the State Counsel.

**9.** Given the said facts and also taking note of the directions given by this Court vide order dated 31.7.2018 in the aforementioned bunch of writ petitions, it is evidently clear that this Court had granted interim protection to only those specific petitioners who had approached the High Court and the interim protection also was confined to the subject against which each of the petitioners were working. This Court in the subsequent series of litigation of similar nature had specifically mentioned that the recruitment process, if any, would be permitted to be continued except for filling up those posts where there is a claim by the previous academic sessions' guest faculties and the said interim order would come into force only in the event of the posts are lying vacant and it has not been filled up before the interim orders were passed by this Court.

**10.** Given the aforesaid facts, this Court is of the opinion that the service of the petitioner since has not been questioned in any other writ petition and that the petitioner is still, by virtue of appointment granted to her, continuing in service, her services should not be discontinued.

**11.** Now, so far as the advertisement dated 12.9.2019 (Annexure P-5) whereby the respondents subsequently have initiated steps for filling up of the posts of Guest Lecturers by engaging fresh set of Guest Lecturers is concerned, the contention of the counsel for the petitioner is that the petitioner was working as Guest Lecturer in the previous academic session, i.e., for the year 2018-19, and the academic session came to an end in the month of February, 2019. Further contention of the counsel for the petitioner is that the petitioner's services have not been discontinued on account of any unsatisfactory work or for any misconduct so committed by the petitioner.

**12.** Grievance of the petitioner is that, since the petitioner was working as a Guest Lecturer under the respondent no.3-college for the academic year 2018-19 and the academic session has come to an end in February, 2019, the respondents should not be permitted to replace the petitioner by another set of contractual Guest Lecturers.

**13.** Contention of the counsel for the petitioner is 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 as there is no complaint whatsoever so far as the competency of the petitioner is concerned. It is further contended by the counsel for the petitioner 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-college for the subject in which the petitioner was taking classes.

**14.** Counsel for the petitioner relies upon a judgment of this Court passed in the case of "Manju Gupta & others Vs. State of Chhattisgarh & others" decided on 27.2.2017 in Writ Petition (S) No. 4406 of 2016, whereby similarly placed Guest Lecturers under the Director (Industrial Training Institute) have been granted protection from being replaced by another set of Guest Lecturers.

**15.** Having heard the contentions put forth on either side and on perusal of record, what is admitted is that the petitioner was appointed vide Annexure P-2. The appointment so made is till an alternative arrangement is made by way of

recruitment through regular/contractual/transfer. 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 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 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.”

**16.** This Court, under the given circumstances, is inclined to accept the same analogy in the present case 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

subject against which the petitioner was engaged under the respondent no.3-college.

**17.** 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 Lecturer. 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.

**18.** In view of above, the advertisement dated 12.9.2019 (Annexure P-5) shall not be given effect to.

**19.** The writ petition stands allowed to that extent and disposed of accordingly.

/sharad/

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