

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1083 of 2020

1. Kamlesh Kumar Deshmukh S/o Shri Machhangram Deshmukh Aged About 33 Years Guest Faculty Political Science, Government Naveen College, Katekalyan, District Dantewada, Chhattisgarh, R/o Village Jhalmala, Post Jhalmala, Tehsil Balod, District Balod, Chhattisgarh, Pin 491444.
2. Dr. Yashukriti Hajare W/o Shri Rajesh Hajare Aged About 36 Years D/o Shri Shayamlal Ukey, R/o Indra Nagar, Dongargaon, Ward No. 05, District Rajnandgaon, Chhattisgarh, Guest Faculty In Government Nehru P.G. College, Dongargarh, District Rajnandgaon Chhattisgarh.
3. Paltu Ram Sahu S/o Shri Amarnath Sahu Aged About 28 Years Guest Faculty Botany In Rani Rashmi Devi Singh Government College, Khairagarh, Rajnandgaon, District Rajnandgaon Chhattisgarh, R/o Village Dhariya, Post Dhariya, Padmavatipur, Chhui Khadan, District Rajnandgaon Chhattisgarh.
4. Kaushik Kumar Sahu S/o Ghanaram Sahu Aged About 29 Years Guest Faculty Hindi In A.P.S.G.M.N.S. Government P.G. College, Kawardha, District Kabirdham Chhattisgarh. R/o Kachhari Para, Ward No. 03, Bemetara, District Bemetara Chhattisgarh 491995.
5. Panchram Sahu S/o Shri Motiram Sahu Aged About 28 Years Guest Faculty Psychology In A.P.S.G.M.N.S. Government P.G. College, Kawardha, District Kabirdham, Chhattisgarh, R/o Village Sarekha, Post Kawardha, District Kawardha, Chhattisgarh. 491995.
6. Khoman Lal Sahu S/o Santram Sahu Aged About 29 Years Guest Faculty Sociology In A.P.S.G.M.N.S. Government P.G. College, Kawardha, District Kabirdham, Chhattisgarh, R/o Village - Saloni, Post Upawah, P.S. Ghumka, Tehsil And District Rajnandgaon Chhattisgarh. 491995
7. Shweta Agrawal D/o Shri Pramod Agrawal Aged About 31 Years Guest Faculty Computer Science In Government Digvijay Autonomous P.G. College, Rajnandgaon, District Rajnandgaon, Chhattisgarh, R/o Sadar Bazar, Ward No. 04, Dongargaon, District Rajnandgaon 491661.
8. Taruna Verma S/o Shri Santosh Verma Aged About 23 Years Guest Faculty Commerce In Government Digvijay Autonomous P.G. College, Rajnandgaon, District Rajnandgaon, Chhattisgarh. R/o Gandhi Chowk, (Pooja Traders) Ghumka District Rajnandgaon Chhattisgarh.
9. Panchanand Kumar Pradhan S/o Shri Jalandhar Pradhan Aged About 29 Years Guest Faculty Hindi In Government Naveen College Pirda, District Mahasamund, Chhattisgarh, R/o Village Goraiya, Post And Than Sankara (Jonka), District Mahasamund Chhattisgarh.
10. Kamal Narayan Ghritlehare S/o Mantram Ghritlehare Aged About 25 Years Guest Faculty Physics In Government Naveen College Pirda, District Mahasamund Chhattisgarh, R/o Village Lariya, Post Rohansi, Tehsil Palari, District Baloda Bazar.
11. Kaushik Lal Bishi S/o Shri Rupdhar Bishi Aged About 28 Years Guest Faculty Hindi In Government Digvijay Autonomous P.G. College, Rajnandgaon, District Rajnandgaon, Chhattisgarh, R/o

Village Gabaud, Post Memra, Tehsil Pithora, District Mahasamund Chhattisgarh.

12. Hemlata Sahu D/o Shri Rama Sahu Aged About 30 Years Guest Faculty History In Government Digvijay Autonomous P.G. College, Rajnandgaon, District Rajnandgaon, Chhattisgarh. R/o Motipur, Sonarchal, Ward No. 08, Rajnandgaon Chhattisgarh.
13. Roopali Burande D/o Narendra Burande Aged About 32 Years Occupation Guest Faculty (English) Govt. Model College Somani District Rajnandgaon Chhattisgarh. R/o IInd Floor, Sunder Bhavan, C/o Mundra Niwas, Ramdin Marg, Rajnandgaon Chhattisgarh.
14. Manjula Soni W/o Chandan Soni Aged About 40 Years Occupation Guest Faculty (English) Govt. Digvijay Autonomous, Pg College Rajnandgaon, Chhattisgarh, R/o C-4, Budhapara, Raipur, District Raipur Chhattisgarh

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Versus

1. State Of Chhattisgarh Through Principal Secretary, Higher Education Department, Mantralaya, Indiravati Bhawan, New Raipur, District Raipur Chhattisgarh.
2. Commissioner Higher Education Block C-3, 2nd And 3rd Floor, Indiravati Bhawan, New Raipur, District Raipur Chhattisgarh.
3. Principal Government Naveen College, Katekalyan, District Dantewada Chhattisgarh.
4. Principal Government Nehru P.G. College, Dongargarh, District Rajnandgaon Chhattisgarh.
5. Principal Rani Rashmi Devi Singh Government College, Khairagarh, Rajnandgaon, District Rajnandgaon Chhattisgarh.,
6. Principal A.P.S.G.M.N.S. Government P.G. College, Kawardha, District Kabirdham Chhattisgarh.
7. Principal Government Digvijay Autonomous P.G. College, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
8. Principal Government Naveen College Pirda, District Mahasamund Chhattisgarh.
9. Principal Govt. Model College Somani District Rajnandgaon Chhattisgarh.

---**Respondents**

For petitioners – Shri Rahul Tamaskar, Advocate.
For State- Shri Kapil Maini, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

19/02/2020

Heard.

1. The grievance of the petitioners in the present writ petition is that

the petitioners are working as a Guest Lecturer under the respondent No.3 to 9 in different colleges spread over the State for the academic session 2019-2020. It is stated that the respondents should not be permitted to replace the petitioners by another set of contractual Guest Lecturers.

2. The contention of the petitioners are that the petitioners have undergone the due process of selection for being appointed as a Guest Lecturer and their services are satisfactory and no complaint exist whatsoever, so far as the competency of the petitioners are concerned. It is further the contention of the petitioners is that now that the academic session is going to be over in the month of February, 2020 and the respondents should not be permitted to go on for a fresh recruitment process for filling up of the posts of Guest Lecturers for the subject in which the petitioners were working and were taking classes.
3. 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.
4. 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.
5. Having heard the contentions put forth on either side and on perusal of record, what is admitted is that the petitioners were appointed in different colleges. 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.

6. 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.”

7. 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 complaint 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 respondents No.3 to 9 college against which the petitioners were engaged.
8. 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.
9. So far as the claim of remuneration as per the guidelines of the UGC is concerned, it would be open for the petitioners 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.

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

Sd/-

(Goutam Bhaduri)

JUDGE