

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2013 of 2020

-
-
1. Pramod Kumar Yadav @ Pramod Yadav, Son of Lalo Prasad Yadav, R/o Village- Batraha, Ward No. 25, P.S. and District- Saharsa.
 2. Md. Akhtar, Son of Norr Mohammad, Resident of Niyamat Tola, Gangjala Ward No. 15, P.S. and District- Saharsa.
 3. Md. Rustam, Son of Md. Jahir, Resident of Niyamat Tola, Gangjala, Ward No. 15, P.S. and District- Saharsa.
 4. Pankaj Kumar, Son of Ram Pukar Yadav, Resident of Village- Arraha, Ward No. 4, P.S. Sour Bazar, District- Saharsa.
 5. Md. Ibrar Alam, Son of Mohammad Mokim Uddin, Resident of Bhartiya Nagar, Ward No. 26, Anchal Kahaara, P.S. and District- Saharsa.
 6. Vicky Kumar Mallick, son of Sita Ram Mallick, Resident of New Bus Stand, Harijan Tola, Gangjala, Ward No. 19, P.S. and District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Urban Development, Govt. of Bihar, Patna.
2. The District Magistrate-cum- Executive Officer Saharsa, Municipality, Saharsa.
3. The Executive Officer, Municipality, Saharsa.
4. Chairman, Municipality, Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Mukund
For the Respondent/s	:	Mr. M. Ambust, AC to GP-1
		Mr. Abhay Shankar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 08-08-2023

1. The substantial claim of the petitioners is to either regularize their services, or to absorb them on a permanent scale in the respondent-Municipal Corporation.

2. The writ petition filed by the petitioners does not contain details of duty claimed to have been discharged by the



petitioners on daily wages or muster roll. There is a general statement that they are workers since 2015; except petitioner No. 1, who is since 2007, and petitioner Nos. 5 and 6, since 2016 as drivers, electricians, sanitary workers, etc.

3. The admitted position from the writ petition is that the petitioners have worked on posts which are not sanctioned. Such averment has been made in the paragraph 6 of the writ petition.

4. The uncontroverted averments made in the counter-affidavit are to the effect that pursuant to an order dated 27-9-2016 passed by the Division Bench in the PIL arising out of CWJC No. 384 of 2016, the respondent-Corporation has stopped taking work from daily wages employees, or employees on muster roll. In the year 2018, they have come out with a policy of outsourcing these works to an agency. The policy is dated 29-6-2018, issued by the Urban Development and Housing Department (Annexure-R-3/C) and under the said scheme, now the employees for such work, which was earlier assigned to group-D employees, has been outsourced to private agencies.

5. Considering the above circumstances, this Court finds that there is no policy under which the petitioners can



claim the regularisation for services said to have been rendered for 240 days for the simple reason that there are no details regarding the period during which they claim to have worked continuously for 240 days. Secondly, for the reason that the uncontroverted averment in the counter-affidavit is to the effect that after 2016, i.e., passing of the order by the Division Bench, the petitioners were removed, and since then they are not working as daily wages employees.

6. The learned counsel for the respondent-Corporation thus opposes the prayer and submits that even in terms of the settled legal position arising out of decision of the Hon'ble Apex Court in the case of the *Secretary, State of Karnataka & ors. v. Umadevi & Ors.* reported in (2006) 4 SCC 1, the petitioners' claim is untenable in view of the admitted position emerging from paragraph 6 of writ petition that they never worked against any sanctioned post. There is also no averment that their engagement was after following any process in accordance with Article 14 & 16 of the Constitution of India, and that they have worked for continuous period of 10 years.

7. In view of these facts and circumstances taken note of and the legal position emanating from decision of the Hon'ble Apex Court in the case of *Uma Devi* (supra), no case is made



out for regularisation.

8. The petition is dismissed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.08.2023
Transmission Date	NA

