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2023:PHHC:155371

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-5034-2021

DECIDED ON: 2nd SEPTEMBER, 2023

SORAJ AND OTHERS

.....PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Amandeep Singh, Advocate for
Mr. Neeraj Sheoran, Advocate
for the petitioners.

Mr. Kapil Bansal, DAG, Haryana.

Ms. Nikita Goel, Advocate
for respondents No.2 and 3.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Articles 226 and 227 of the Constitution of India has been invoked for issuance of a writ in the nature of *Mandamus* directing the respondents to take back the petitioners in services as Sweeper man and not to replace them by another set of contractual employees.

2. Learned counsel for the petitioners has contended that the petitioners are working as Sewer Man in the Municipal Corporation, Faridabad on contractual basis since 2016. The services of 90 employees were terminated. Thereafter, leaders of Municipality Employees Union,

Haryana along-with Faridabad Sewer Man employees union staged hunger strike against the termination of those 90 employees. After giving assurance by the Commissioner, Municipal Corporation the said strike was called off. It is submitted on behalf of petitioners that various representations were made to Commissioner, Municipal Corporation, Faridabad as well as before the Chief Minister, Faridabad in the year 2020 but to no avail. The contention of learned counsel for the petitioners is that the services of the petitioners were terminated without giving any opportunity of hearing. The procedure of termination for contractual employee would envisage due notice and opportunity of hearing.

3. Ms. Nikita Goel, learned counsel for respondents No.2 and 3 has contended that the services of the petitioners were provided by the private outsourcing agency in terms of work allotted to it vide letter dated 13.07.2018 and their services were terminated by the private outsourcing agency namely M/s D.C. Builders to whom the work for maintenance of sewer was allotted by the respondent-Corporation. It is submitted on behalf of respondents No.2 and 3 that one Indraj whose services were also terminated by the afore-said outsourcing agency, has been compensated on humanitarian ground.

4. It is submitted that there is no privity of contract between the respondents and the petitioners herein. In fact, services of the petitioners have been dispensed with by the outsourcing agency and not by the respondent-Corporation itself. She has placed reliance upon the judgments rendered by this Court in **“Nishan Singh and others vs. State of Punjab and others; 2014 (11) RCR (Civil) 262; Vikash vs. State of Haryana and**

others; CWP-19762-2018, decided on 11.12.2019 and “Manish Kumar vs. UHBVNL and another; CWP-11432-2021.

5. It is argued that the Division Bench of this Court in Nishan Singh's case (supra) has clearly held that the service provider is not an agency of the State to make recruitments against the civil posts.

6. No other argument has been raised by either of the parties.

7. Heard learned counsel for the respective parties.

8. The argument that the service of the petitioners could not have been terminated without following the procedure of issuing show cause notice and opportunity of hearing would have no bearing considering that the service of the petitioners were terminated by the service provider itself and not by the respondent-Corporation. In case the petitioners herein, are aggrieved against any action of the service provider in terminating their services, they would have a remedy other than that of filing the writ petition. In the case of petitioners neither they were selected under the Service Rules applicable to the regular employees of the State nor there was any advertisement issued by the State under which they applied for their engagement as regular or contractual employee of the State. It was the service provider who entered into an agreement with the State agency to provide work force on certain terms and conditions. The service provider selected the candidates and supplied the same to the Government Department. The judicial pronouncements relied upon by respondents No.2 and 3 are fully applicable to the issue raised in the instant petition.

9. In view of the discussions made hereinabove, and the case law relied upon by respondents No.2 and 3, this Court does not find any ground

to interfere in the issue raised. Hence, the same is dismissed with no order as to costs.

(SANDEEP MOUDGIL)
JUDGE

2nd SEPTEMBER, 2023

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- 1. Whether speaking/ reasoned : Yes / No
- 2. Whether reportable : Yes / No