

CWP-9588-2019 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(104)

**CWP-9588-2019 (O&M)
Date of decision:- 09.05.2023**

Jasbir Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Garvit Mittal, Advocate for
Mr. Ravinder Malik (Ravi), Advocate
for the petitioners No. 1, 2, 5, 6, 7 and 8.

Mr. Pankaj Middha, Addl. A.G., Haryana

Mr. Satish Chaudhary, Advocate
for respondents No.6, 7, 9 and 11.

Mr. Vikram Singh, Advocate and
Mr. Ishnoor Singh, Advocate for respondent No.8.

SUVIR SEHGAL, J. (Oral)

1. By way of present writ petition, petitioners have approached this Court *inter-alia* seeking issuance of a writ in the nature of mandamus directing the respondents not to replace the petitioners with daily wagers or with other similar employees. Direction has also been sought to respondent No.2 to disburse salary of Rs.8,100/- to the petitioners.

2. Counsel for the petitioners submits that the petitioners are working as Pump Operators through the respective Gram Panchayats. He submits that by Memorandum dated 24.08.2016, Annexure P-1, Director, Development and Panchayat, Haryana issued instructions to all the Deputy Commissioners

of the State to ensure that the payment of wages of Tube-well Operators engaged by the Gram Panchayat are made through their bank accounts. Counsel submits that rather than paying salaries, as the Gram Panchayats concerned, were in the process of terminating the services of the petitioners, they submitted a representation dated 04.03.2019, Annexure P-4, before approaching this Court.

3. Upon notice, separate replies has been filed on behalf of the respondents. In the response filed on behalf of official respondents, it has been submitted that the government has no concern with the matter, as after the devolution of powers to panchayati raj institutions, the operation and maintenance of the tube-wells have been handed over to the gram panchayats and the gram panchayats are responsible for the engagement of the petitioners. In a separate response filed on behalf of the Gram Panchayats-respondents No.6, 7, 9 and 11, it has been submitted that the petitioners have been appointed as part time Pump Attendants for running tube-wells and their remuneration is being paid from time to time. Still further, by making a reference to resolution dated 18.12.2018, Annexure R-2, appended with a miscellaneous application, it has been submitted that petitioner No.3-Mahinder Parkash has been removed as he has become over-age. Countering his submissions, counsel for the petitioner submits that some of the petitioners are still in service.

4. I have heard counsel for the parties and considered their respective submissions.

5. It is evident from the material on the record that the petitioners are the employees of the Gram Panchayat and they are engaged and terminated by the Gram Panchayats by passing resolutions. Therefore, question arises as to whether the petitioners can invoke the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India. Similar controversy came up for consideration before a Co-ordinate Bench of this Court in *Sandeep Kumar Versus State of Haryana (2021) (4) PLR 449* and this Court was of the view that writ petition is not maintainable against an order/resolution passed by the Sarpanch/Gram Panchayat and the petitioner has an alternate efficacious remedy under Section 47 of the Haryana Panchayati Raj Act, 1994 (for short “the Act”).
6. In view of the above, instant writ petition is not maintainable. However, liberty is granted to the petitioners to take recourse to the remedy available to them under Section 47 of the Act in case they are aggrieved.
7. Petition is disposed of.
8. Pending applications, if any, shall stand disposed of.

09.05.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No