

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8471 of 2023(O&M)
Date of decision: 24.04.2023

Gurpreet Singh and others

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kuljit Singh Bal, Advocate
for the petitioners.

Mr. Vishnav Gandhi, DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

1. The learned counsel representing the petitioners admits that respondent no.3 and 4 are not instrumentalities of the State as defined in Article 12 of the Constitution of India. He further admits that the petitioners were employed by respondent no.3 and 4 as Data Entry Operators in order to work for the Government. While relying upon the judgment passed in **Rashmi Rekha Dash vs. State of Odisha and another, W.P.(C) No.16906 of 2020**, he submits that since the petitioners were discharging the work of regular government employees, though through out source agency, hence the impugned orders being stigmatic in nature are liable to be set aside.

2. This Court has considered the submissions of the learned counsel representing the petitioners.

3. It is evident on reading of the impugned orders passed on 05.11.2022 (Annexure P-3 to P-10), that on being found that there was large scale fraudulent manipulations in the official record while registering BS-IV

type vehicles, respondent no.3 and 4 have dispensed with the services of the petitioners. In fact, this matter is already being considered by the Court in Civil Writ Petition (PIL) No.154 of 2021.

4. This Court has carefully read the judgment in **Rashmi Rekha Dash's case (supra)**. The writ petition was filed to direct party no.2 to issue a formal order of regularization of her services as a Data Entry Operator. The Court on the basis of a previous order passed by the High Court while upholding the decision of the Tribunal in a previous writ petition issued the directions. The question of maintainability of the writ petition in the context of Article 12 of the Constitution of India was not deliberated.

5. Though, the Central Government has enacted Contract Labour (Regulation and Abolition) Act, 1970, however, on the basis of permission granted under the various provisions of the Act, it is permissible to employ the services of an outsourcing agency for performing certain functions. In the exercise of writ jurisdiction, this court does not find it appropriate to pass orders on merits which may prejudice the interest of any of the contesting parties. The petitioners, if so advised, may avail the alternative remedy.

6. Disposed of accordingly.

7. At this stage, the learned counsel representing the petitioners relies upon the Punjab Ad-hoc Contractual, Daily Wage, Temporary, Work Charged and Outsourced Employees' Welfare Act, 2016.

8. Sh. Vishnav Gandhi, Deputy Advocate General, Punjab, submits that the validity of the aforesaid Act was subject matter in Civil Writ Petition No.4187 of 2017 and a statement has already been made that the provisions of this Act have been kept in abeyance.

9. All the pending miscellaneous applications, if any, are also disposed of.

April 24, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No