

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

CWP No.5190 of 2015 (O&M)
Date of Decision.24.01.2023

Kurukshetra University Daily Wages Employees Associations

...Petitioner

Vs

State of Haryana and another

...Respondents

2. CWP No.12576 of 2013 (O&M)

Kurukshetra University Daily Wages Employees Associations ...Petitioners

Vs

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Kanwar Abhay Singh, Advocate
for the petitioner in CWP No.5190 of 2015.

None for the petitioners in CWP No.12576 of 2013.

Mr. Kapil Bansal, DAG, Haryana.

Mr. A.S. Virk, Advocate
for the respondent-Kurukshetra University.

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JAISHREE THAKUR J. (ORAL)

C.M. No.1615-CWP-2022

Application is allowed.

Annexures P-22 and P-23 are taken on record.

Main Cases

This order of mine shall dispose of writ petitions bearing
Nos.5190 of 2015 and 12576 of 2013 as the issue for consideration is

common in both the writ petitions. However, facts are being enumerated from CWP No.5190 of 2015.

The petitioner-Employees Association (hereinafter referred to as petitioner Association) seeks for issuance of a writ in the nature of certiorari for quashing communication dated 06.03.2015 (Annexure P-21) by which services of the members of the petitioner Association, who had been engaged under the Outsourcing Policy with the respondent-University have been dispensed with.

Learned counsel appearing for the petitioner Association would contend that the members of the petitioner Association were working with the respondent-University through a contractor namely M/s Radha Krishan Coop. L & C Society Ltd. and had continued to work against the posts they were appointed. They were aggrieved against the inadequate pay that was being given to them, hence they filed CWP No.12576 of 2013 through petitioner-Association seeking direction to the respondent-University to pay due wages to them. However, an assurance had been given to them that the respondent-University was going to float new tender for outsourcing of various works/services on DC rates, instead of minimum wages. It is argued that instead of allowing them to continue to work and pay on DC rates, services of the contractor itself have been terminated and thereafter, services of members of the petitioner Association were made to continue under new contractor by paying on DC rates.

Learned counsel appearing on behalf of the respondent-University would argue that members of the petitioner Association herein have been appointed under a contractor on the basis of an outsourcing policy, which itself cannot be a subject matter of dispute by way of writ

petition. It is further argued that the matter stands settled by a judgment passed by a Division Bench of this Court in *Nishan Singh Vs. State of Punjab and others 2014 (11) RCR (Civil) 262* wherein it has been held that service provider is not an agency of the State to make recruitment against the civil posts and therefore, action of the respondent-University dispensing with service of the contractor cannot be challenged. Reliance has also been placed upon the judgment rendered by this Court in *Vikash Vs. The State of Haryana and others* passed in CWP No.19762 of 2018 decided on 11.12.2019 wherein it has been held that no writ petition would lie against an outsourcing agency being a private entity, which is not an authority in terms of Article 12 of the Constitution of India. The members of petitioner Association herein have been out of service since the year 2015 and since then, much water has flown under the bridge, as the respondent-State has formulated various policies, latest being the policy dated 30.06.2022 called Deployment of Contractual Employees wherein a procedure has been set out for various authorities/institutions/universities etc. to employ persons.

I have heard learned counsel for the parties and with their assistance, have gone through the pleadings of the case. It is an admitted fact that the members of the petitioner Association had been employed to serve in the respondent-University through a contractor, whose services now stood dispensed with by the respondent-University itself as far back as 2015. There is no direct employment of the members of the petitioner-Association either with the respondent-University or the respondent-State and therefore, the writ petitions are not maintainable, in view of the judgments rendered in the cases of *Nishan Singh* and *Vikash* (supra).

Consequently, both the writ petitions stand dismissed. Even though this Court has held that writ petitions are not maintainable, however, to do justice and equity between the parties, the respondent-University is directed to issue experience certificates to the members of the petitioner Association, who have worked with the University for a considerable length of time, entitling them to seek employment elsewhere. Necessary application/representation would be made within a period of two weeks from today and on doing so, experience certificate be issued to them within a period of two weeks thereafter.

(JAISHREE THAKUR)
JUDGE

January 24, 2023

Pankaj*	Whether speaking/reasoned	Yes/No
	Whether reportable	Yes/No