IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 3754 of 2023

1. Tara Podo Soren, aged about 54 years son of Late Rasik Soren, resident of Village Bagadar, P.O. Jaiharipur, P.S. Raneshwar, District Dumka, Jharkhand.
2. Budhan Soren, aged about 36 years, son of Late Rubin Soren, resident of Village Purana Dumka, Jaruwadih, P.O. Dumka, P.S. Dumka (Mufassil), District Dumka, Jharkhand
3. Chandu Marandi, aged about 49 years, son of late Bhola Marandi, resident of Village Hijila, Burudih, P.O. Purana Dumka, Dangalpara, P.S. Dumka (Muffasil), District Dumka, Jharkhand
4. Baha Murmu, aged about 44 years, daughter of Late Jeevan Murmu, resident of Village Naudiha, P.O. Teliyachak, P.S. Dumka(M), District Dumka, Jharkhand
5. Lukhimati Chore, aged about 47 years, daughter of Late Sonalal Chore, resident of Village Pahuwatanr, P.O. Kadrasal, P.S. Jama, District Dumka, Jharkhand,
6. Uma Rani Murmu, aged about 56 years, wife of Marshal Marandi, resident of Village Purana Dumka, Jaruwadih, P.G. Hostel, Dangalpara, P.O. Dumka, P.S. Dumka, (Muffasil), District Dumka, Jharkhand
7. Chandeshwar Soren, aged about 36 years, son of Baleshwar Soren, resident of Village Tenghowa P.O. Babhandiha,, P.S. Palajori, District Deoghar, Jharkhand.
8. Marshal Marandi, aged about 57 years, son of Late Juel Marandi, resident of Village Purana Dumka, Jeruwadih, P.O. and P.S. Dunka, District Dumka, Jharkhand **… … Petitioners**

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Revenue and Land Reforms, having its office at Project Building, Dhurwa, P.O. and P.S. Dhurwa, District Ranchi, Jharkhand
2. The Director, Land Records and Measurement, Department of Revenue and Land Reforms, Govt. of Jharkhand, having its office at Project Building, Dhurwa, P.O. and P.S. Dhurwa, District Ranchi, Jharkhand.
3 The Deputy Secretary, Department of Revenue and Land Reforms, Govt. of Jharkhand, having its office at Project Building, Dhurwa, P.O. and P.S. Dhurwa, District Ranchi, Jharkhand.
4. The Commissioner, Santhal Paragana Division, Dumka, P.O. and P.S. Dumka, District Dumka, Jharkhand.
5. The Deputy Collector (Establishment), Dumka, P.O. and P.S. Dumka, District Dumka, Jharkhand.
6. The Settlement Officer, Dumka, P.O. and P.S. Dumka, District Dumka, Jharkhand.
7. The Assistant Settlement Officer, Dumka, P.O. and P.S. Dumka, District Dumka, Jharkhand **… … Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioners : Mr. Atanu Banerjee, Advocate
Mr. D.C. Mishra, Advocate

For the Respondents : Mr. Anuj Burman, A.C. to G.A. IV

05**/08.02.2024** Heard the learned counsel for the parties.

2. This writ petition has been filed for the following reliefs:-

"*(i) that the instant writ application the petitioner prays for issuance of an appropriate writ for quashing and setting aside the order dated 06.04.2023 (Annexure-10 to this writ application) (Establishment), passed by Deputy Collector, (Establishment), Dumka (respondent no.5), addressed to the Assistant Settlement Officer, Dumka (respondent no.7), whereby and whereunder the respondent no. 5 has returned the recommendation for regularization of the petitioners to respondent no. 7 since under State of Jharkhand, irregularly appointed working employee, Regularization Rules of 2015 (Amended), Rule-3 (Ka) (ii), as the post is not sanctioned, therefore, regularization cannot be made.*

And

The petitioners further pray before this Hon'ble Court for issuance of an appropriate writ(s), order(s), direction(s) commanding upon the concerned respondents to regularize the services of the petitioners, who have been working under the control of Settlement Office, Dumka, under Revenue, Registration and Land Reforms Department, on the post of Safai Moharir, since more than 20 years, pursuant to the Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand, its notification no. 4871 dated 20.06.2019.

And

The petitioners further pray for issuance of an appropriate writ / writs, order / orders, direction / directions commanding upon the concerned respondent to fix the salary of the petitioners at least class-III employees, as they are working since more than 20 years, regularly without medical insurance and provident fund.

And

The petitioners further pray for issuance of an appropriate writ / writs, order / orders, direction / directions commanding upon the concerned respondent to pay the salary of the petitioners with a view to Minimum Wages Act, as the petitioners are not getting any insurance, medical benefit, provident fund and they are getting the salary on piece rated, by which they are unable to maintain their family and they have rendered their services, diligently, honestly and sincerely to the best satisfaction of the concerned respondent since last more than 20 years.

And/ Or

For issuance of an appropriate writ(s), order(s), direction (s) as may be deemed fit and proper for doing conscionable justice to the petitioners."

Arguments of the petitioners.

3. As per the writ petition the petitioners are working on the post of 'Moharir' on contractual basis as daily wagers known as 'Safai Moharir' in the Settlement Office at Dumka.

4. It has been stated in paragraph no. 7 of the writ petition that the petitioners were appointed after following due procedure after roster clearance and advertisement and have been working for a long time. The payment was made from time to time and remuneration was also enhanced at the level of the department. It is their further case that the matter regarding payment to 'Safai Moharir' was placed before the cabinet and a decision was taken that 'Safai Moharir' would be paid minimum wages at the rate of Rs. 250 per day and accordingly, a Resolution No. 65 dated 04.03.2014 (Annexure-1) was passed. Further details about each of the petitioners have been mentioned in paragraphs nos. 10 and 11 of the writ petition.

5. The learned counsel for the petitioners has submitted that the Notification dated 13.02.2015 is the scheme of Regularization as formulated by the State of Jharkhand. Earlier a writ petition bearing W.P. (S) No. 462 of 2015 was filed by some of the petitioners seeking a direction upon the respondents to make payment of wages @ Rs. 250 per day in terms of the aforesaid decision of the cabinet contained in memo no. 65 dated 04.03.2014. The said writ petition was disposed of vide order dated 02.11.2015 observing that the petitioners may have a claim as per Rule framed by the State Government for Regularization vide Notification dated 13.02.2015. The order in W.P. (S) No. 462 of 2015 was passed on 02.11.2015. The learned counsel submits that pursuant to orders passed by this Court, the Assistant Settlement Officer, Dumka issued a letter dated 29.01.2016 addressed to the Deputy Director Revenue and Land Reforms Department providing the list of working employees on the post of ‘Safai Moharir’ in the Settlement Office, Dumka and a list of 43 ‘Safai Moharir’ with necessary details was provided in which the date of birth and the period for which they have been working etc. were furnished. The learned counsel submits that said list included the name of each of the petitioners in the present case.

6. He further submits that thereafter Deputy Secretary cum Deputy Director, Revenue, Registration and Land Reforms Department issued letter dated 02.03.2020 addressed to all settlement officers of Jharkhand directing them to implement the Service Regularization Rules of 2015 which was amended vide Notification Nos. 4871 dated

20.06.2019 read with Notification no. 1348 dated 13.02.2015. Copy of said notifications of 2019 and 2015 have not been filed along with the writ petition. However, the learned counsel for the petitioners has submitted that the Notification of 2015 was Rules for Regularization and so far as amendment issued vide Notification dated 20.06.2019 is concerned, the same was modifying the 2015 Rules of Regularization with regard to the cutoff date for the purposes of regularization.

7. The learned counsel further submits that Assistant Settlement Officer, Dumka issued a letter dated 24.01.2023 addressed to the Commissioner, Santhal Pargana, Dumka requesting therein to regularize the 'Safai Moharir' and enclosed a detail chart of employees for necessary action. He submits that detail chart forwarded by covering letter dated 24.01.2023 includes the names of each of the present petitioners. The learned counsel further submits that a letter dated 22.03.2023 was again issued giving the list of the persons for the purposes of regularization of 'Safai Moharir' who were working under the Settlement Officer, Santhal Pargana, Dumka and in this list also, the name of the petitioners have been mentioned.

8. To the utter surprise of the petitioners, the impugned order dated 06.04.2023 was passed by the respondent no. 5 and was addressed to respondent no. 7 whereby the respondent no. 5 returned the recommendation for regularization by stating that the post for which the regularization was sought was not sanctioned and therefore the regularization cannot be made. For this purpose, the Authority had referred to Regularization Rules of 2015(Amended) and Rule 3(ka)(ii).

9. The learned counsel for the petitioners while advancing his arguments has submitted that it is not the case of the petitioners that the petitioners are covered by the Rules of Regularization which have been framed by the respondents in the year 2015/2019, rather their specific case is that they are otherwise entitled for regularization.

10. The learned counsel has relied upon a judgement passed by the Hon'ble Supreme Court reported in ***(2013) 14 SCC page 65 (Nihal Singh and Others versus State of Punjab) para 20*** to submit that there is no justification on the part of the State not to regularize the petitioners after utilizing the services of the petitioners for decades. He

has also submitted that even if there are no sanctioned post to absorb the petitioners, it is for the State to create such post by conscious choice on the basis of some rational assessment of the need. The learned counsel has also relied upon a judgment passed by this Court in ***L.P.A. No. 348 of 2017*** and other analogous cases ***(State of Jharkhand and others versus Shasticharan Mahto and others)*** decided on 12.01.2023 and reported in ***2023 (1) JBCJ 628 (HC)*** , paragraph 15, to submit that even if the post is not sanctioned the order of regularization can be passed by considering the long length of service.

11. Learned counsel has further relied upon a judgment passed by this Court in ***W.P. (S) No. 3382 of 2016*** decided on 11.05.2017 ***(Shankar Kachapp and others versus the State of Jharkhand and Others***) , paragraph 10, to submit that the judgment passed in the case of Nihal Singh has been taken into consideration. The learned counsel has also relied upon a judgment passed by this Court in the case being ***W.P.(S) No. 1021 of 2020 and other analogous cases (Dharo Oraon and Others versus State of Jharkhand)*** decided on ***15.01.2024.*** The learned counsel has referred to the issue no. 4 framed in the said judgment at paragraph 32 i.e. *" if initial appointment was not made by the competent Authority and not against the sanctioned and vacant post, whether the employees are entitled for regularization or not in such cases."* The learned counsel submits that same issue is involved in the present case also. The learned counsel has submitted that though no direction for regularization has been issued by this Court, but the orders refusing to grant regularization to some of the petitioners has been set aside and appropriate direction has been issued directing the Chief Secretary of the State to constitute a high powered committee comprising of heads of the department/secretaries including the experts and other members who are found appropriate in the interest of committee for taking a final decision relating to regularization of services and taking a policy decision in the matter.

12. The learned counsel has submitted that this Court has observed that the Court cannot issue writs of mandamus for regularization of the services of the petitioners of the said case since it is the policy decision of the State, but definitely the Court cannot shut its eyes if

the poor employees are forced to come on road because of absence of any specific guidelines/policy decision of the State. The learned counsel submits that considering the aforesaid judgments by this Court in ***W.P. (S) No. 1021 of 2020 and other analogous cases (supra)*** similar order may be issued in the instant case by setting aside the impugned order refusing the regularize the services of the petitioners.

Arguments of the Respondent State.

13. The learned counsel appearing on behalf of the respondents has opposed the prayer and has submitted that the impugned order has been passed pursuant to earlier two orders passed by this Court in the case of the petitioners wherein a direction was issued to take decision in terms of the circulars dealing with regularization. He has submitted that as per the impugned order only the claim for regularization as per the circular has been rejected. He has submitted that if any fresh policy is framed by the State Government, the same will not be in isolation and if the petitioners would be covered by such a policy, their cases can also be considered, but so far as impugned order is concerned, the same may not be set aside as the petitioners are not entitled for regularization in terms of the existing policy of the Sate.

Findings of this Court.

14. After hearing the learned counsel for the parties and considering the facts and circumstances of this case, it is not in dispute that the petitioners were working on daily wages and even at one point of time, a decision was also taken to pay daily wages to the petitioners at the rate of Rs.250 per month. The petitioner nos. 3,5 and 7 have claimed that pursuant to certain advertisement and conduct of written examination on 17.05.2001, a select list (Annexure-2) of 50 candidates was issued which contained their name. No such claim has been made with regard to other petitioners. So far as other petitioners are concerned, it has been claimed that petitioner nos. 1,2,4,6 and 8 have been working since 27.05.1997, 02.06.1997, 16.06.1997, 01.06.1993 and 15.05.1997 respectively.

15. Upon perusal of Annexure-2 which is the select list after Advertisement and conducting written examination on 17.05.2001, it is apparent that a specific stipulation has been made therein that the persons working as ‘Safai Moharir’ will not be entitled to make any

claim of regularization and also any claim of daily wages employee. It has been specifically stated that the persons will be paid as per the rate fixed by the State Government.

16. This Court finds that though a copy of the order passed in W.P. (S) No. 6773 of 2004 has not been annexed in the writ petition but from perusal of the order passed in W.P.(S) No. 1226 of 2008 it is clear that the writ petition being W.P. (S) No. 6773 of 2004 was filed by an association who were appointed on contract basis in the settlement office at Dumka between 1992 to 2001 and were making repeated requests for their absorption in government office, instead the respondents took steps for absorption of retrenched employees of Census Department in settlement offices. Being aggrieved, the W.P. (S) No. 6773 of 2004 was filed which was disposed of vide order dated 18.07.2005 with an observation that in future if vacancy arises, the cases of the members of the association shall be considered by giving relaxation in age.

17. This Court finds that another writ petition being W.P.(S) No. 1226 of 2008 was filed where the petitioners prayed for a direction upon the respondents to consider their case for appointment on the post of 'Moharir' by extending relaxation in age and giving them preference in view of aforesaid order passed by this court in W.P. (S) No. 6773 of 2004. A further prayer was also made for restraining the respondents from absorbing the retrenched Census Employees on the post of Moharrir in Settlement Office, Dumka before absorbing the petitioners on the post of Moharrirs on regular basis as the petitioners were already working in Settlement office at Dumka against the sanctioned post of Moharrirs. The prayer in the writ petition is apparent from the opening paragraph of the judgment which is quoted as under: -

> " In the instant writ application, the petitioners have inter alia prayed for direction upon the respondents to consider the case of the petitioners for appointment on the post of Moharrir, by extending relaxation in age and giving preference, in Settlement Office, Dumka in view of order passed by this Court in W.P. (S) No. 6773 of 2004 and further prayer has been made for restraining the respondents from absorbing the retrenched Census Employees on the post of Moharrir in Settlement Office, Dumka before absorbing the petitioners on the post of Moharrirs on regular basis, who are working in Settlement office at Dumka against the sanctioned post of Moharrir."

18. The writ Court disposed of the writ petition being W.P.(S) No. 1226 of 2008 directing the respondents to take a concreate decision in the matter in the light of the aforesaid Notification and observation made in W.P.(S) No. 6773 of 2004 and pass speaking order. The paragraph 7 and 8 of the order is quoted as under:-

> *"7. In view of the submissions advanced by learned counsel for the parties, it would be apposite to dispose of the writ application with a direction to respondents, in particular respondent no. 3 to take a concrete decision in the matter in the light of notification dated 13.02.2015 of Department of Personnel, Administrative Reforms and Rajbhasha and observations made in W.P. (S) No. 6773 of 2004 and pass a speaking and reasoned order, communicating a copy thereof to the petitioners, as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt/production of copy of this order.*
>
> *8. With the aforesaid observations and directions, the writ petition stands disposed of."*

19. There is yet another order passed by this Court in writ petition filed by petitioners i.e. W.P. (S) No. 462 of 2015 which was disposed of vide order dated 02.11.2015 wherein the petitioners had challenged the aforesaid memo number 65 dated 04.03.2014 fixing the rate as Rs. 250/- per day. The prayer made in the writ petition is apparent from paragraph no. 2 of the writ order which is quoted as under:

> " 2. Resolution at Annexure-1 being Memo No. 65 dated 04.03.2014 issued by the Revenue and Land Reforms Department, Government of Jharkhand specifies the piece rated work of different categories of Piece Rated Daily Wager engaged in the settlement work being carried out in the State. Para 3 thereof clearly states that Rs. 250/- would be the piece rate for the various categories of work classified in Schedule-1 comparative chart Clause-4 relates to the nature of work being performed by Saffai Moharir i.e. petitioners."

20. The said writ petition being W.P. (S) No. 462 of 2015 was decided vide judgment dated 02.11.2015 wherein this Court observed that though challenge to the Resolution at Annexure-1 has also been made but writ petition was lacking in material details and particulars even to show that the exact nature of work being performed by the petitioners. The findings of the learned writ Court is quoted as under:- Paragraph 4 and 5

> " 4. Though, challenge to the Resolution at Annexure-1 has also been made, but writ petition is lacking in material details and particulars even to show the exact nature of work being performed by them as Saffai Moharir who comes under Clause-4 of the Schedule-I attached to Annexure-1. Reading of the nature of work and attached Clause-4 in the Schedule indicates different nature of

> works for different number of plots such as Safai Samaharnalya for which Rs. 250 as piece rated wages are admissible against 200 plots to be worked against; there are other categories like preparation of plot index, copy of plot index, preparation of Goswar, etc for different number of plots such as 2000 and 100 entries respectively for achieving the target and receiving Rs. 250/- as piece rated wages. It therefore appears that classification of different nature of works have been made and is not suffering from irrationality in categorizing different nature of work even in Class-IV category of Safai Karya to fix piece rated wages at Rs. 250/- for each such category. Materials in the writ petition or submissions advanced on behalf of the petitioners do not show that classification is irrational or does not have any nexus. It is open to the State to categorize the nature of work and also to fix the quantum of remuneration for such nature of work on daily wages, piece rated wages, temporary engagement, any ad-hoc or contractual engagement for that matter.
>
> 5. In the respondent's affidavit, it is clearly stated that Rs. 250/- is the piece rated wages, as per the new enhanced slab, paid to the petitioners for piece rated work on any particular day. The ground for interference in Resolution at Annexure-1 is not made out in law. Petitioners have sought payment of Rs. 250 per day as wages which is contrary to the Resolution at Annexure-1 dated 04.03.2014. If the petitioners perform the nature of piece rated work, they are entitled to get Rs. 250 as prescribed thereunder. So far as the third claim of the petitioners for regularization is concerned, respondents have stated that the nature of work is piece rated and the question of regularization is within the jurisdiction of the State Government."

21. Further, in the said writ petition being W.P. (S) No. 462 of 2015 it was also submitted by the counsel for the petitioners that the Government had Notified 2015 Rules for regularization under which the petitioners may have a claim and therefore the writ Court passed direction as contained in paragraph 6 of the judgment which is quoted as under:-

> " Counsel for the petitioners submits that the State Government has notified 2015 Rules for regularization by the Department of Personnel, Administrative Reform and Rajbhasha by Notification dated 13.02.2015 under which petitioners may have claim. However, rules of 2015 stipulates certain conditions including that a person has worked on daily wages for a period of ten years by the cut-off date 10.04.2006 and the work being undertaken is against the sanctioned vacant post, etc. This issue therefore are not required to be gone into, as, if the petitioners satisfy those conditions, it is open to them to pursue their claim before the competent authority."

22. There was a clear direction by two orders of this Court one is W.P. (S) No. 1226 of 2008 and another in W.P. (S) No. 462 of 2015 for consideration of the case of the petitioners under the Rules of regularization framed by the State Government. Observation was also made in connection with directions already issued in W.P. (S) No. 6773 of 2004 relating to age relaxation at the time of such consideration. This Court finds that pursuant to such orders, there

were certain communications as has been referred to by the learned counsel for the petitioners where the list of persons who were working as 'Moharir' along with other details have been prepared. Ultimately by the impugned order dated 06.04.2023 the claim for regularization of the petitioners was rejected by referring to the Rules of 2015 as well as Rules of 2019 by holding that the case of the petitioners is not covered in view of the fact that claim for regularization could not be granted in view of Rule 3(ka) (ii) of the aforesaid rules for regularization if the employee was not working against sanctioned post. The case of 40 such persons has been rejected and out of them eight petitioners are there in the present case.

23. From the perusal of the entire writ petition and also the argument advanced by the learned counsel for the petitioners it is not the case of the petitioners that they are entitled for regularization in terms of Regularization Rules 2015 and/or as amended in the year 2019. The claim of the petitioners is that they have been working since 1997/2001 and the respondents having taken work from them for such a long duration therefore, they are entitled to regularization by virtue of such long work.

24. This Court is of the considered view that no mandamus can be issued by this Court for the regularization of the petitioners as the petitioners are not covered by the existing scheme of regularization as framed by the State Government. This Court also finds that the impugned order has been passed on account of specific directions passed by this Court in W.P.(S) No. 1226 of 2008 for consideration of regularization of the petitioners in terms of the existing policy of regularization of the State Government. Considering this aspect of the matter and upon going through the impugned order which has been passed solely on the ground that as per the existing policy of the State Government the petitioners are not entitled for regularization as they are not working against vacant sanctioned post, this Court finds no illegality or perversity in the impugned order rejecting the claim of regularization of the petitioners in terms of the rules of 2015/2019.

25. **<u>Consideration of judgements cited by the petitioners-</u>**

None of the judgements relied upon by the petitioners help the petitioners as discussed below:-

A. So far as the judgment passed by this Court in ***W.P. (S) No. 1021 of 2020 dated 15.01.2024*** is concerned, in the said case also, this Court clearly observed that no direction for regularization could be granted and this Court has directed the respondents to constitute high powered committee with heads of department/secretaries with experts so as to frame a policy to deal with such employees who are working for a long time, though not against vacant sanctioned post and those persons whose cases are not covered by the existing policy of regularization. This Court is of the considered view that if any such policy decision is taken by the State, the same would be applicable to the entire state of Jharkhand and there is no need to pass another similar order as has been passed in W.P. (S) No. 1021 of 2020.

So far as setting aside of the impugned order is concerned, this Court is not inclined to grant such relief in view of the fact that no illegality or perversity has been pointed out by the learned counsel for the petitioners with respect to the reasons which have been assigned in the impugned order. The impugned order simply says that the petitioners would not be entitled for regularization in terms of the Regularization Rules of 2015 and 2019. Further the impugned order has been passed in consonance with the earlier two orders passed by this Court. However, as already stated above, it is sufficient to observe that if any such policy is framed by the State Government in future in terms of the order passed in W.P. (S) No. 1021 of 2020 and it covers the persons like the petitioners, the petitioners would certainly be entitled to claim such relief.

B. So far as the judgment passed by the Hon'ble Supreme Court in the case of ***Nihal Singh (supra)*** is concerned, paragraph 20 of the said judgment is quoted as under: -

> *" But we do not see any justification for the State to take a defence that after permitting the utilization to the services of a large number of people like the appellants for decades to say that there are no sanctioned posts to absorb the appellants. Sanctioned posts do not fall from heaven. The State has to create them by a conscious choice on the basis of some rational assessment of the need."*

The said judgment simply states that it is for the State to create the sanctioned post, the said judgment does not indicate that merely because the persons continued to work, they are automatically entitled to regularization without any sanctioned posts. The said judgement would not entitle the petitioners to claim reliefs from this

court as prayed for in this writ petition particularly when in W.P. (S) No. 1021 of 2020 appropriate directions to frame policy has already been issued.

At this stage no right crystalizes upon the petitioners to claim any regularization when they are not covered under the existing scheme of regularization of the state government.

C. The judgment passed by this Court in ***L.P.A. No. 348 of 2017*** passed in the case of ***State of Jharkhand versus Shasticharan Mahto*** does not apply to the facts of the present case. In the said case before the writ Court the petitioners were seeking regularization on class-IV posts who were working in the capacity of daily wagers in the Department of Forest and Environment, Government of Jharkhand and the writ Court had directed the State to first examine whether at the time the petitioners were engaged/ appointed or immediately thereafter, post on which they were appointed/engaged were vacant or not and if at the time of their appointment/ engagement the sanctioned posts were vacant, the respondents state was directed to consider granting benefit to the petitioners as they were appointed on sanctioned vacant post. This aspect of the matter is apparent from paragraph no. 6 and 7 of the judgment passed in the L.P.A. In the present case, the petitioners have not been working against any sanctioned vacant post accordingly the aforesaid judgment does not apply to the facts and circumstances of this case. This is over and above the fact that with respect to the present petitioners the writ Court had directed for consideration of the case of the petitioners in terms of the existing regularization policy and the impugned order has been passed in the light of such directions only and it is an admitted fact that the petitioners are otherwise not covered under the existing regularization policy of the State.

D. The judgment passed by this Court in ***W.P. (S) No. 3382 of 2016 decided on 11.05.2017*** does not apply to the facts and circumstances of this case as in the said case there was already an award of regularization passed by Industrial Tribunal by virtue of a reference made by the Central Government issued under notification under section 10 of the Industrial Disputes Act,1947 and it has been held that one time scheme floated by the state for regularization is not the only scheme for regularization and further in the aforesaid context it was clarified that for regularization in service creation of permanent additional posts is not necessary. It was held that by virtue of earlier

award dated 29.06.2005 that the employees must be treated as regularly appointed employees under the State.

26. As a cumulative effect of the aforesaid findings, this Court is not inclined to interfere with the impugned order. However, if any policy is framed by the State Government in terms of W.P. (S) No. 1021 of 2020 and if the petitioners are covered by such policy, the dismissal of this writ petition will not come in the way of the petitioners to claim any relief under the policy which may be framed by the State.

27. This writ petition is accordingly dismissed.

(Anubha Rawat Choudhary, J.)

Binit