



2024:DHC:1547



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 14.02.2024
Judgment pronounced on: 28.02.2024

+ W.P.(C) 13727/2023

VANDANA SHARMA AND OTHERS Petitioners

versus

UNION OF INDIA AND OTHERS Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. A.K. Singla, Senior Advocate with
Mr. Rahul Shukla, Mr Akshit Sachdeva,
Ms. Sayantani Basak and Ms. Snigdha,
Advocates
For the Respondent : Ms. Avshreya Pratap Singh Ruddy with
Ms. Usha Jamnal, Advocate for UOI.
Ms. Avnish Ahlawat, Standing Counsel
(GNCTD) with Mr. N.K. Singh, Ms.
Laavanya Kaushik, Ms. Aliza Alam and
Mr. Mohnish Sehrawat, Advocates.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

[The proceeding has been conducted through Hybrid mode]

1. This a writ petition under Article 226 of the Constitution of India,
inter alia, seeking the following reliefs:-

*“In the facts and circumstances of the case, it is, most
humbly prayed that the Hon’ble Court may kindly be
pleased to call for records of respondent No. 4 (DSHM)*

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relating to issue of impugned order dated 03.10.2023 (Annexure: P-12) and order setting-aside/quashment of order dated 03.10.2023.

Hon'ble Court may also pass such other writ(s), order(s) or direction(s) considered just fit, proper and expedient in the facts and circumstances of the case."

2. It is the case of the petitioners that they were selected to various posts in the Project called National Iodine Deficiency Disorder Control Programme (hereinafter referred to as "the Project") on contractual basis between the year 1999 to 2013. The terms of appointment clearly stipulate that appointment is to continue till the project lasts. The appointment carries benefits of pay-scales applicable to employees of Govt. of NCT of Delhi and also eligible to leave and other benefits. It is also the case of the petitioners that on 30.06.2015 the respondent no. 2/ GNCTD through respondent no. 4/ DSHM had decided to have financial and administrative merger of the above project. According to the petitioners, amongst the terms of financial merger, it was decided that the funds would be released by respondent no.1/ UoI to respondent no.2/ GNCTD through respondent no. 4/ DSHM instead of respondent no.2 GTB Hospital. It is also the case of the petitioners that the administrative approval clearly stipulated that upon integration, the service condition of contractual staff of the project being different from other contractual staff in position in Delhi State Health Mission (hereinafter referred to as "DSHM") will be honoured.

3. Petitioners state that in pursuance of the aforesaid administrative approval, the petitioners received salaries in month of March 2019 which included benefits of pay-scales and other benefits.

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4. The petitioners allege that, ignoring the approval recorded in note dated 12.02.2015 (Minister, GNCTD), the respondent no. 4/ DSHM sought to displace the status of the petitioners by equating them with status of contractual staff alongwith proposed closure of the project on the basis that the said project has reached its end. The petitioners state that the respondent no.1/ UoI which had established the said project had not made any such declaration that the project was reaching its end and the claim of the respondent no.4/ DSHM is contrary to the record of the project.

5. The petitioners were aggrieved by the threat of discontinuation of the project by the respondent no.4/ DSHM as also being aggrieved by the proposed termination of their contractual employment, filed various writ petitions bearing W.P.(C) 8851/2019, W.P.(C) 9619/2019, W.P.(C) 3096/2019, W.P.(C) 3115/2020, W.P.(C) 8143/2020 and W.P.(C) 8144/2020. The contractual employment as also the salaries of the petitioners was protected and disbursed to them by virtue of various interim orders passed by this Court in the aforesaid writ petitions. The aforesaid writ petitions have been disposed of by this Court on 28.02.2024.

6. The petitioners further submit that by virtue of the order dated 03.10.2023 the DSHM had directed that the project is discontinued in the government of NCT of Delhi with effect from 03.10.2023. Aggrieved by this order, the petitioners impugn the same in the present writ petition.

CONTENTIONS OF THE PETITIONERS

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7. Mr. Singla learned senior counsel appears for the petitioners and submits that the petitioners were recruited at various posts between the years 1999 and 2013 in the National Iodine Deficiency Disorder Control Programme, i.e., the Project, on contractual basis. He submits that though the petitioners were employed on contractual basis, however, such selection was akin to selections done on regular basis. Referring to the appointment letter, he submits the following issues which were covered in the said appointment letter which according to him can be construed to safely infer that such contractual employment was in fact in the nature of regular recruitment:-

- a. The engagement was to be at par with regular employees of GNCTD.
- b. The petitioners were entitled to similar increments accruable from time to time.
- c. The petitioners as employees were to continue without any artificial break in service.
- d. Other privileges which were admissible to the regular employees of GNCTD were also to be available to the petitioners.
- e. The petitioners were to be treated as employees on the strength of the GTB hospital.

8. He submits that the respondent no. 2/ GNCTD was to raise a Programme Implementation Plan (hereinafter referred to as “PIP”) (Budget) to the respondent no.1/ UoI about the estimated cost which would be incurred in the following year so as to enable the Union of India to release funds accordingly. The said funds which were released



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would be utilized by the GNCT of Delhi for the purposes of implementation of the aforesaid project.

9. Learned senior counsel referred to the Record of Proceedings (hereinafter referred to as “ROP”) of the year 2014-15 to submit that the petitioners were mentioned in such ROP by what is known as FMR Codes.

10. According to Mr. Singla, the appointment letter itself stipulated that the services of the petitioners would continue so long as the project is continuing to be implemented. He submits that the project is still continuing and as such the action of the respondents in the previous round of litigation seeking to disengage the services of the employees and now by the letter dated 03.10.2023 to terminate their contractual services by falsely stating that the project has been closed, is contrary to the record.

11. In order to substantiate the aforesaid argument, learned senior counsel has meticulously taken this Court to various documents like the RoPs for various years as also the Annual Project Report commencing from the year 2018 through till 2022-23. According to learned senior counsel, the funds which have been sought by the respondent no. 2/ GNCTD from the respondent no.1/ UoI have continued even till date. In particular, learned senior counsel referred to the letter dated 31.07.2023 which is a letter issued by the Deputy Secretary of the National Health Mission-IV to the Mission Director, Department of Health and Family Welfare, State Health Society, Government of Delhi on the administrative approval for supplementary proposals for FY 2023-24



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under the National Health Mission for the Union Territory of Delhi. Drawing strength from the said letter, learned senior counsel submits that the further grant of funds for the implementation and running of the said project has been sanctioned by the Union of India even for the year 2023-24 and as such the bogey raised by the respondent no. 2/ GNCTD on the basis of the order dated 03.10.2023 is not only falsified but also belied by the overwhelming documents placed on record by the petitioners.

12. That apart, learned senior counsel had also taken this Court through various annual reports commencing from the year 2016-17 through till the year 2022-23. By referring to the relevant portions showing statistics in respect of the iodine deficiency amongst various classes of citizens who are vulnerable to the disorders arising from iodine deficiency, learned senior counsel submits that the iodine deficiency has not come down and is still continuing. On that basis, he strenuously argues that so long as the objectives of the project have not been met, the project will be deemed to be continuing and the respondent no. 2/ GNCTD cannot of its own, claim that the project is closed. Moreover, he submits that the receipt of funds continuously from the Union of India as demonstrated by various documents placed on record would also support the contention that the project is still continuing and the services of the petitioners is necessary for the successful implementation of the project even in future.

13. Apart from the aforesaid, learned senior counsel referred to those annual reports to submit that the report reveal that the consumption of



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iodized salt at household level has no doubt increased to 94.3% as per NFHC-5 report, however, the aim of the project to ensure consumption of iodized salt to the extent of 100% of the population is yet to be met. He submits that so long as the aim and objects of the project has not been met, the project cannot be said to be closed. Such assertion, by the respondent no. 2/ GNCTD is contrary to the project reports. Hence, the impugned order dated 03.10.2023 ought to be quashed and set aside.

14. Yet another argument of Mr. Singla was, in attacking the stand of the respondent no. 2/ GNCTD whereby the said respondent claims that the project is closed and the remaining work of the project can easily be undertaken by its own employees in RCH/DSHM. According to Mr. Singla, the said Project would now be implemented by giving additional charge to the staff of RCH/DSHM. He submits that the stand taken would actually vindicate the submissions of the petitioner that the project still continues and the petitioners can be continued in their contractual employments. Learned senior counsel further referred to the counter affidavit filed on behalf of the respondent no.1/ UoI to submit that the Central Government has nowhere stated that they have closed the project. In that view of the matter, learned senior counsel submit that it is not within the jurisdiction or authority of the respondent no. 2/ GNCTD to contend that they have unilaterally closed the project particularly when funds are continuously being received by it. He submits that, if that were so, the services of the petitioners, even if of contractual nature, cannot be terminated by the respondent no. 2/ GNCTD.

15. Mr. Singla also argued that the respondent no. 4/ DSHM is not an



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authority which is competent to decide if the iodine deficiency is or is not a public health issue in Delhi more particularly since the project was established by the respondent no.1/UoI as part of its National health Mission as a Centrally Funded Scheme. This coupled with the fact that the funds for the FY 2023-24 have already been released by it to the respondent no. 2/ GNCTD. Apart from that, learned senior counsel submits that the impugned order dated 03.10.2023 has been issued by an authority which lacks in competency, power and jurisdiction and the same is illegal, arbitrary and unconstitutional rendering the same liable to be quashed by this Court.

16. He relies upon the judgment of the Co-ordinate Bench of this Court in *Abhinav Chaudhary & Others vs. Delhi Technological University & Another*, reported as 2015 SCC OnLine Del 6780 and the judgement of the Supreme Court in *Manish Gupta & Another vs. President, Jan Bhagidari Samiti & Others* reported as (2022) 15 SCC 540.

CONTENTIONS OF THE RESPONDENT

17. At the outset, Ms. Ahlawat learned counsel appearing for the respondent nos. 2 to 4 has handed over the bench, written submissions in addition to the oral arguments addressed by her. Alongwith the said written submissions, Ms. Ahlawat has also annexed thereto certain documents in support of her contentions including the ROPs for the year 2024-25 and 2025-26.

18. Ms. Ahlawat submits that the petitioners were engaged admittedly as contractual employees purely for the purposes of implementation of



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the project. She submits that the terms of the engagement categorically stipulated that their employment would be co-terminus with the completion of the project. Even otherwise she submits that the petitioners being contractual employees cannot be heard to claim either regularization or continuation of their engagement in the project. The entitlement of the petitioners to continue in such services is not a fundamental right and is governed only by the terms of appointment. Once the government came to the conclusion that the project or the aims of the project have been achieved, the same can be closed by the said government.

19. In order to buttress her aforesaid contention, Ms. Ahlawat submits that though the project was being implemented and continued in the past, however, the ROP of the year 2022-23 at page 93 would indicate that under the said project the respondent no.2/ GNCTD sought and were granted Rs. 6,80,000/- as funds on account of, not the project by itself, but for the purposes of defraying the salaries of the petitioners. By referring to the letter dated 23.11.2023 issued by the Mission Director, DSHM to the Additional Secretary and the Mission Director, National Health Mission, Ministry of Health and Family Welfare, Government of India, she submits that the State Programme/Implementation programme for the FY 2024-25 and 2025-26 were revised enclosing therewith the implementation of activities under the National Health Mission. By referring to the ROP in respect of RCH.8 in relation to NIDDCP/ the project, Code 62 regarding implementation of NIDDCP/ the project, no funds for the aforesaid Financial Years have at all been sought by the



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respondent no.2/ GNCTD. On that basis, she submits that the project as initially commenced had come to a closure so far as the State of Delhi is concerned. She submits that the requirement now so far as DSHM alongwith other agencies is concerned, is only to supervise and control the iodine deficiency to the level as envisaged under the project. As such, the petitioners cannot claim that the funds are continuously being obtained on account of the project, consequently, the requirement of extension of contractual employment of the petitioners cannot be demanded as a matter of right.

20. In order to counter the submissions of learned senior counsel for the petitioners, Ms. Ahlawat has taken this Court through the annual report for the year 2022-23. After referring to various paragraphs, particularly para 1.7.4 of the said report, she submits that the aim of bringing down the prevalence of iodine deficiency disorder to less than 5% having been achieved, the requirement to continue the project is over. In support of her contentions, she referred to various statistical data in respect of various class of citizens who were vulnerable to the Iodine Deficiency Disorder (hereinafter referred to as “IDD”) to submit that the statistics indicate that the project need not be continued having achieved its original aim. On that basis, she submits that apart from not requiring any further financial support/funds from the Union of India, as contended above, even the statistics of the project itself indicate that the same can be closed having achieved the target. She submits that even on this ground alone the contractual employment of the petitioners need not be continued being co-terminus with the project itself. Other than that,



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Ms. Ahlawat strenuously contended that the continuation or halting of a particular project being the prerogative of the State Government, the same would fall within the realm of policy decision taken by the Competent Authority having regard to various administrative exigencies and requirements and as such the petitioners being contractual employees cannot insist that the project ought to be continued and the petitioners be continued in their contractual employment. She prays that the present petition be dismissed with cost.

21. Ms. Ahlawat relies upon the following judgements of the Supreme Court and Co-ordinate Bench of this Court to supplant her arguments:-

- i) ***Delhi Development Horticulture Employees' Union vs. Delhi Administration, Delhi & Others***, reported in (1992) 4 SCC 99;
- ii) ***Gurbachan Lal vs. Regional Engineering College, Kurukshetra & Others***, reported in (2007) 11 SCC 102;
- iii) ***Mohd. Abdul Kadir & Another vs. Director General of Police, Assam & Others***, reported in (2009) 6 SCC 611;
- iv) ***Dr. Geeta Oberoi vs. National Judicial Academy, Bhopal***, reported in 2023 SCC OnLine Del 4602.

ANALYSIS AND FINDINGS

22. Having heard Mr. Singla, learned senior counsel for the petitioners and Ms. Ahlawat, learned counsel for the respondent nos. 2 to 4, meticulously perused the record and considered the judgements relied upon by the parties, this Court renders the following judgement.

23. It is undisputed that the petitioners were engaged on contractual terms by the respondents in various capacities for the implementation of



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the NIDDCP/ project, such engagement being co-terminus with the closure of the Project itself. In order to appreciate the contentions of either parties, it would be apposite to extract one of such contractual appointment letters, which is as under:

“GOVT OF NCT OF DELHI
OFFICE OF THE MEDICAL SUPERINTENDENT
SURU TEG BAHADUR HOSPITAL, SHAHDARA DELHI

No. F-2/33/2003/RECT/E-II/GTBH 4026-27 Dated: 27.03.2010

MEMORANDUM

Sub: - Offer of appointment for the post of lab assistant under the project of national iodine deficiency disorders control Programme on contract basis.

Reference him/her application for the post of lab assistant and consequently selected to the post of Lab Assistant on the basis of interview held on 22/03/10 in GTB Hospital Shahdara Delhi. Mr. Bharat Arya is hereby offered the post of Lab Assistant under the National Iodine Deficiency Disorders Control Programme in the Pay Band 5200-20,200 Grade pay 2,400/- on the terms and conditions given below:-

- 1. The appointment will be on purely adhoc & emergent basis for a period of One Year and will not confer upon him/her any claim for seniority and regular appointment to this or any other equivalent post.*
- 2. Continuation of him/her service will be subject to the continuation of the NIDDCP and to the satisfactory report from, I/c NIDDCP (Delhi)*
- 2. Him / her service can be terminated at any time without any notice and assigning any reasons.*
- 3. No TA/DA will be paid for him/her reporting to this hospital after submitting the joining.*

If Mr. Bharat Arya accepts this offer of appointment on the above terms and conditions. He/She should be report to the undersigned for further directions immediately but not later than

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29/03/10 failing which the offer of appointment will stand cancelled.

Sd/-
(Dr. N. K. Agarwal)
ADDL. MEDICAL SUPDT./HOD”

It is clear from the perusal of the aforesaid terms that not only was the engagement purely contractual but also that it was co-terminus with the Project’s closure. It would also be relevant to note the status of the petitioners *qua* their engagement in the Project which is reflected by the following chart:

NAME	DESIGNATION	DATE OF APPOINTMENT	PAY SCALE
Vandana Sharma	Lab Technician	18.11.1999	Rs. 4500-125-7000/-
Bharat Arya	Lab Assistant	27.03.2010	Rs. 5200-20,200/-
Madhulika	Technical Officer	25.03.2003	Rs. 6500-200-10,500/-
Swati Gupta	Statistical Assistant	25.03.2003	Rs. 4500-125-7000/-

24. No doubt that the petitioners were granted similar benefits which are available to the regular government employees, however, that by itself would not change the character of the employment itself. The petitioners themselves do not dispute this position. The only case of the petitioners as projected is that the Project has not come to an end and so long as the same continues, the petitioners cannot be disengaged.

25. In order to appreciate the said contention, this Court had perused the Annual Reports generated in respect of the various Health programmes implemented by the Central Government either by itself or through the State Governments.

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26. The National Health Mission (NHM) encompasses its two Sub-Missions, the National Rural Health Mission (NRHM) and the newly launched National Urban Health Mission (NUHM). It was launched by the Hon'ble Prime Minister on 12th April 2005, to provide accessible, affordable and quality health care to the rural population, especially the vulnerable groups. The main programmatic components include Health System Strengthening, Reproductive-Maternal-Neonatal-Child and Adolescent Health (RMNCH+A), and control of Communicable and Non-Communicable Diseases. NHM envisages universal access to equitable, affordable & quality health care services to all citizens through systems and institutions that are accountable and responsive to people's needs.

National Health Mission launched various projects/ programmes under it with certain clear aims and objectives which are in the nature of projects based on achieving a certain goal. One such programme is the NIDDCP which was to be implemented in the whole of India through various State Governments. The laudable aim was twofold, one to bring the prevalence of the IDD below 5% and; two, to achieve 100% consumption of adequately Iodated Salt (15ppm) at the household level all over the country.

27. It has now to be seen as to whether the State of Delhi has been able to achieve the said target. For such purposes, it would be relevant to consider the Statistics as mentioned in the Annual Reports for the years 2016 through till 2018 which have been placed on record. It would also be relevant to keep in mind the 3 categories of vulnerable citizens



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afflicted with IDD and the chart indicating the progress achieved by State of Delhi over the years in implementation of the Project which is as under:

YEAR	AGE GROUP	URINARY IODINE CONCENTRATION
2016-2018	1-4 years	0.7 %
2016-2018	5-9 years	1.3 %
2016-2018	10-19 years	2.2 %

The aforesaid figures ascertainable from the Annual Reports of the National Health Mission would indicate that the State of Delhi has been able to achieve remarkable progress in implementation of the said Project.

28. The other aim of the Project was to achieve a target of 100% consumption of iodised salt. The national data ascertained from the Annual Report of the years 2020-2021 show the consumption of iodated salt at household level as 89%. Subsequently, as per the Annual Report of the years 2022-2023, the same increased to 94.3%.

29. It can be ascertained from the aforementioned data, the target of reaching the IDD to below 5% has also been achieved with consumption of Iodised Salt to the extent of 94.3%. This, to the mind of this Court is a clear and undoubted indicator that the aim and object sought to be reached by the National Health Mission, through the implementation of the Project has been achieved. This Court has also noted that the aim of the Project was not complete eradication of IDD, though which may be



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an ideal situation, but to bring it below 5%. That target, has been achieved and infact according to the statistics, it is well below even 5% in all categories.

30. According to the statistics, India appears to have achieved consumption to the extent of 94.3% which would also take within its fold the consumption within Delhi. This achievement appears to be satisfactory. The Court is conscious of the fact that 100% consumption may be an ideal situation, but at the same time it cannot be contended that the Project has not achieved its proposed target. The petitioners do not have an indelible right to demand continuation of the Project which has achieved its basic target of bringing IDD to below 5% and thereby seek continuation of their contractual engagement. Pushing through the target of 100% consumption of iodised salt in any case was not within their terms of engagement nor their work profile.

31. That having been said, it would now be relevant to consider the issue of whether the respondent nos.2 to 4 could have closed the project. In order to appreciate the same, this Court had considered the material documents on record placed by the petitioners as well as the respondents. From the affidavit of the respondent no.1/UoI, it is apparent that the Central Government had considered the statistics obtained from the Annual Reports to conclude that the State of Delhi could close the Project since the aims and objects of the Project seem to have been satisfactorily achieved. Relevant portion of the affidavit is extracted hereunder for clarity:

“ 3-8. ...However, it is humbly submitted that as per the comprehensive National Nutrition Survey (CNNS(2016-

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18))conducted by UNICEF in collaboration with the respondent no. 1, the median urinary iodine level in Delhi in different age group of children are 241 ug/L in 1-4 years, 236ug/L in 5-9 years and 188 ug/L in 10-19 years old. The median urinary iodine level below 100ug/L suggest inadequate iodine level, 100-299ug/L adequate iodine level and greater then 299ug/L as excess urinary iodine level. Hence, it is clear from the above that there is no deficiency of iodine in the people of Delhi. Therefore, now since it is not a public health issue, high remuneration to contractual employees could not be supported.”

The impugned order dated 03.10.2023 is extracted hereunder:

**“DELHI STATE HEALTH MISSION (DSHM) NATIONAL IODINE DEFICIENCY DISORDER CONTROL PROGRAMME B-WING, 6th LEVEL, VIKAS BHAWAN- II, METCALF ROAD, NEW DELHI 110054.
Tel: 011-20832406, E mail: spodelhi.niddcp@gmail.com**

F7/2039/DHS/HQ/CC/2020-C-000/691675/ 129-137 Dated: 03.10.2023

ORDER

WHEREAS Iodine Deficiency is no more a public health issue in Delhi, so the National Iodine Deficiency Disorder Control Program (NIDDCP) under Delhi State Health Mission is hereby discontinued in Govt. of NCT of Delhi w.e.f. 03rd October 2023.

WHEREAS the activities of Iodine Deficiency prevention in Delhi can be streamlined with RCH program under the administrative control of Director Family Welfare. However, no separate program is required in Delhi.

This issues with the approval of Secretary, Deptt. of H&FW, GNCTD/Chairman, State Health Society (Delhi)

*Sd/-
(Danish Ashraf)
Spl Secy, H&FW, GNCTD
Mission Director,
DSHM”*

The letter dated 11.12.2023 of the Union of India is also extracted hereunder:

**“P-17029/10/2022-NHM-IV-Part (1)
Government of India**

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**Ministry of Health & Family Welfare
(NHM-IV Division)**

*Nirman Bhawan, New Delhi
Dated: 11th December, 2023*

To,
*The Mission Director (NHM),
Department of Health & Family Welfare,
State Health Society,
Govt. of Delhi.*

*Sub: Discontinuation of NIDDCP Program in the NCT of Delhi-
regarding*

This in reference with the communication received from NCT of Delhi vide D.O. Letter F7/2039/DHS/HQ/CC/2020-C-000691675/129-137 dated 3rd October, 2023 regarding the discontinuation of the National Iodine Deficiency Disorder Control Program (NIDDCP) and the activities under the program may be streamlined with RCH program under the administrative control of Director Family Welfare and hence no separate program is required for NCT of Delhi.

Under NHM, annual proposals are received from the State/UTs which is appraised by National Programme Coordination Committee (NPCC) of NHM. The approvals are thereby accorded based on the discussions/ decisions during the NPCC meeting. Moreover, Health is a State subject and in Program Implementation Plan, budget is approved as per State's requirement and justification.

Further, GoI is committed to provide health care services to its citizen with support of State Governments, by ensuring State's commitment in the form of a financial sharing pattern between States/UTs wherein States are free to provide more resources for better programme execution.

This issues with the approval of competent authority.

*Sd/-
Shri Kaustubh Sandip Giri
(Deputy Secretary NHM-IV)"*

32. Acting upon the said letter, the respondent no. 2/ GNCTD

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decided to close the said Project, ostensibly on the ground that now it is only the supervision and control of IDD which was necessary. For such purposes, the respondent no. 2/ GNCTD thought it appropriate to supervise and control IDD through its own Department (RCH/DSHM) and its own employees by giving additional charge to such employees. Surely, the petitioners cannot have any quarrel with the said decision. This is for the reason that how and in what manner a State has to administer its Business is purely within its realm and prerogative.

33. The next argument of the petitioners is that the Project is still continuing as the respondents themselves have stated that the Project can be streamlined with RCH program under the administrative control of Director Family Welfare. The same is untenable for the reason that the Project was initiated at the time when the IDD was a huge concern for the nation, requiring immediate action by the Central Government. The Project was launched with a specific goal and objective, and surveys were conducted regularly to track the progress of the Project. The statistics as placed on record speak for themselves, in that the said objectives were achieved and it was only on the basis of the said statistics that the respondent made a decision that the project need not be continued having achieved its original aim. In any case, health is a State concern regardless of having separate projects for various health concerns.

34. Moreover, it is not as if the respondent no. 2/GNCTD has acted hastily or with *malafide* while deciding to close the Project. It was only after the targets have been achieved under the said Project and deciding

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that the remaining work of supervision could be achieved through its own departments and officers that the said decision to close of Project was taken. At this juncture, it would be of extreme importance to also consider the letters sent alongwith the RoPs by the respondent no.2 /GNCTD to the Central Government in regard to the requirement of funds. From a perusal of the same, it is revealed that the State has not sought any funds at all for the FY 2024-2025 and 2025-2026 in respect of the Project (NIDDCP). This also lends credence to the submission of the respondent no. 2/GNCTD that the Project, for all material issues, has been closed.

35. This Court is in complete agreement with the ratio laid down in the judgement of the Supreme Court in **Gurbachan Lal (supra)** relied upon by the respondent nos. 2 to 4. The relevant paragraphs are extracted hereunder:-

“45. In the present case the appellant continued to work for ten years or more but such continuous temporary employment of the appellant cannot vest any legal right in him to continue when the scheme on the basis of which he was appointed and was working itself came to an end. It is also incorrect to say that the court would direct continuity of the scheme for the purpose of keeping the appellant in service and in any view of the matter he could not be treated as a permanent employee of the Institution as he was appointed under a scheme and not in the mainstream of the Institution.

xxx

xxx

xxx

52. Therefore, since the service of the appellant was temporary in nature; appointed under a scheme which had come to an end and he had joined the service in complete recognition and acceptance of the conditions and further had already accepted fresh assignment on the basis of a new scheme as noted herein earlier, it cannot be said that termination of his service was invalid in law.



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Therefore, the stand of the appellant that it was not open to the Board of Governors of the Institution to say that they were unable to continue with EDC and thereby terminating the services of the appellant, does not hold good.”

36. The judgements of **Abhinav Chaudhary (supra)** and **Manish Gupta (supra)** relied upon by the learned senior counsel for the petitioners do not apply to the facts and circumstances of the present case, as in those cases, one set of contractual employees/ ad hoc employees were sought to be replaced with another set of contractual employees/ ad hoc employees whereas in the present petition, the petitioners were never replaced rather the respondent no. 2/ GNCTD has closed the Project itself. Thus, there is no question of replacement of the petitioners with another set of contractual employees.

37. Even otherwise, such decisions are in the nature of policy decisions of the State and the petitioners cannot be heard to say that the project ought to be continued despite overwhelming statistical data staring in the face of the State or that their engagement ought to be continued. It is for the State to decide in a particular situation, whether a Project needs to be continued or it would be feasible to close the same. It is trite that Courts would be loath in interfering with Policy matters of the State. Infact, in the present case, the statistical data from the Annual Reports speak for themselves.

38. Having held as above, it cannot also be disputed that the petitioners have been serving the respondents for the last many years continuously, though as contractual employees. It appears that the petitioners have been working diligently in their respective streams and



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have been granted all the allowances, emoluments, leave etc., akin to the regular employees. Though no particular prayers have been made, however, keeping in view the aforesaid undisputed long years of contractual service, the right of the petitioners to be considered for regular appointments in similar Departments where regular recruitment drives are initiated are held in favour of the petitioners. The petitioners shall be given due age relaxation in accordance with the Rules and the years of actual service rendered towards experience shall also be considered. This would be in line with the ratio laid down by the Supreme Court in *Secretary, State of Karnataka & Ors. vs. Umadevi & Ors.*, reported in (2006) 4 SCC 1, *University of Delhi v. Delhi University Contract Employees Union & Ors.*, reported in (2021) 16 SCC 71.

39. Other than the relief in para 38 above, for the aforesaid reasons, this Court is not inclined to allow the petition and the same is dismissed without any order as to costs.

TUSHAR RAO GEDELA, J.

FEBRUARY 28, 2024/aj/ms