IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 878 of 2022

.....

Laxmikant Guin, aged about 44 years, S/o Gopal Chandra Guin, resident of village- Sarhachiya, P.O and P.S-Tenughat dam, district- Bokaro, (Jharkhand). **..... Petitioner(s)**

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail, Tenughat, P.O,P.S-Tenughat District- Bokaro, State-Jharkhand.
5. Secretary, Department of Finance, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District-Ranchi, State-Jharkhand. **..... Respondent(s)**

With

W.P.(S) No. 1535 of 2022

.....

1. Krishna Ram, aged about 40 years, S/o Shiv Lal Ram, resident of village- Kolghatti, P.O- Reformatory School, P.S-Lohsinghna, district- Hazaribag, (Jharkhand).
2. Manoj Yadav, aged about 38 years, S/o Galtu Gope, resident of Mandari Khurd, P.O- Reformatory School, P.S-Sadar, District- Hazaribag, Jharkhand.
3. Biru Ram, aged about 40 years, S/o Mahendra Ram, resident of Ambedkar nagar, Gari Khana, Old busstand road, P.O & P.S- Sadar, District- Hazaribag, Jharkhand.

..... Petitioner(s)

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, Loknayak Jaiprakash Narayan Central Jail Hazaribag, P.O- Reformatory School, P.S- Lohsinghna, District- Hazaribag, State- Jharkhand. **..... Respondent(s)**

With

W.P.(S) No. 104 of 2022

.....

Saraswati Devi, wife of Guput Singh, aged about 34 years, resident of village- Kudag, P.O-Kudag, P.S-Latehar, district-Latehar (Jharkhand). **..... Petitioner(s)**

Versus

1. The State of Jharkhand through Chief Secretary, Government of Jharkhand, Project Bhavan, P.O- Project Bhavan, P.S- Jagannathpur, district-Ranchi, State-Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, District Jail Latehar, P.O & P.S-Latehar, District-Latehar, State- Jharkhand.
5. Secretary, Department of Finance, Government of Jharkhand, Project Bhawan, P.O.+P.S. Dhurwa, District - Ranchi, Jharkhand. **..... Respondent(s)**

With

W.P.(S) No. 109 of 2022

.....

Varun Kumar, son of Sambhu Prsad Sharma, aged about 34 years, resident of village- Bamandiha, P.O- nigari, P.S-nigari, district-Lohardaga (Jharkhand). **..... Petitioner(s)**

Versus

1. The State of Jharkhand through Chief Secretary, Government of Jharkhand, Project Bhavan, P.O- Project Bhavan, P.S- Jagannathpur, district-Ranchi, State-Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, District Jail Lohardaga, P.O & P.S-Lohardaga, District-Lohardaga, State- Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 121 of 2022

.....

Taufique Alam, S/o Najir Alam, aged about 33 years, resident of Bangala road Ward no.03, P.O & P.S-Lohardaga, district-Lohardaga (Jharkhand). **..... Petitioner (s)**

Versus

1. The State of Jharkhand through Chief Secretary, Government of Jharkhand, Project Bhavan, P.O- Project Bhavan, P.S- Jagannathpur, district-Ranchi, State-Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, District Jail Lohardaga, P.O & P.S-Lohardaga, District-Lohardaga, State- Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 122 of 2022

.....

Gaurab Kumar, son of Ram Naresh Tiwari, aged about 41 years, resident of village- Dhurihar, P.O-Pachadha, P.S-Hisua, district-Nawada (Bihar). **..... Petitioner (s)**

Versus

1. The State of Jharkhand through Chief Secretary, Government of Jharkhand, Project Bhavan, P.O- Project Bhavan, P.S- Jagannathpur, district-Ranchi, State-Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, District Jail Latehar, P.O & P.S-Latehar, District-Latehar, State- Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 123 of 2022

.....

Pappu Kumar, son of Gupteshwar Yadav, aged about 28 years, resident of village- Sasang, P.O-Sasang, P.S-Chandwa, district-Latehar (Jharkhand). **..... Petitioner (s)**

Versus

1. The State of Jharkhand through Chief Secretary, Government of Jharkhand, Project Bhavan, P.O- Project Bhavan, P.S- Jagannathpur, district-Ranchi, State-Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, District Jail Latehar, P.O & P.S- Latehar, District-Latehar, State- Jharkhand.
5. Secretary, Department of Finance, Government of Jharkhand, Project Bhawan, P.O & P.S- Dhurwa, District-Ranchi, State-Jharkhand. **..... Respondent(s)**

With

W.P.(S) No. 510 of 2022

.....

Md. Nisar, S/o Sahjad Ali, aged about 30 years, resident of Village- Topa, 198, Wadiye Millat Nagar Topa, P.O- Topa, P.S- Mandu, Pindra, district- Ramgarh, (Jharkhand).

..... Petitioner (s)

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O- Jamira & P.S Rajrappa, District-Ramgarh, State- Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 511 of 2022

.....

Arjun Kumar Bedia, aged about 29 years, S/o Rajeshwar Mahto, resident of Maniwa Tola Hesla, P.O - Hesla, P.S & district- Ramgarh, (Jharkhand). **..... Petitioner (s)**

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project

Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O- Jamira & P.S Rajrappa, District-Ramgarh, State- Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 512 of 2022

.....

Manoj Munda, aged about 32 years, S/o Mahesh Munda, resident of 22, Purana Chaha, P.O & P.S- Ramgarh, district-Ramgarh, (Jharkhand). **..... Petitioner (s)**

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District-Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District-Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O- Jamira & P.S Rajrappa, District-Ramgarh, State-Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 513 of 2022

.....

Amit Kumar Nayak, aged about 34 years, S/o Shildhar Ghansi, resident of Village- Mundu, P.O & P.S- Peterbar, district-Bokaro, (Jharkhand). **..... Petitioner (s)**

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District-Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District-Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O- Jamira & P.S Rajrappa, District-Ramgarh, State-Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 514 of 2022

.....

Munna Nayak, aged about 37 years, S/o Dahar Nayak, resident of House No. 11, Nayak tola, Murram kala, P.O, P.S & district- Ramgarh, (Jharkhand). **..... Petitioner (s)**

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O- Jamira. & P.S Rajrappa, District-Ramgarh, State- Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 515 of 2022

.....

Amar Kumar Verma, aged about 32 years, S/o Jitendra Kumar Verma, resident of Bengal Kuwa, Village-Bhurkunda bazar, P.S- Patratu, district- Ramgarh, (Jharkhand). **..... Petitioner (s)**

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O- Jamira & P.S Rajrappa, District- Ramgarh, State-Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 516 of 2022

.....

Md. Ziaul Haque @ Ziaul Haque, aged about 35 years, S/o Sahadat Ansari, resident of 94, Jamira (Muslim Tola), P.O.-Jamira, P.S.-Rajrappa, District-Ramgarh, (Jharkhand).

..... Petitioner (s)

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and

Disaster Management, Government of Jharkhand, Project Building, P.O. & P.S.-Dhurwa, District-Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O. & P.S.-Dhurwa, District-Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O.-Jamira & P.S.-Rajrappa, District-Ramgarh, State-Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 530 of 2022

.....

Md. Emtiaz Ansari @ Emtiaz Ansari, aged about 27 years, S/o Rafik Ansari, resident of Near Ara D.A.V, Sarabera 96 colony, P.O.-Sarabera, P.S.-Mandu, district-Ramgarh, (Jharkhand). **..... Petitioner (s)**

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O. & P.S.-Dhurwa, District-Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O. & P.S.-Dhurwa, District-Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O.-Jamira & P.S.-Rajrappa, District-Ramgarh, State-Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 531 of 2022

.....

Bharat Kumar Bedia, aged about 22 years, S/o Rajeshwar Bediya, resident of Munua Tola, Near Shiv Mandir, Hesla, P.O.- Hesla, P.S.- Giddi-A, district-Ramgarh, (Jharkhand).

..... Petitioner (s)

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O. & P.S.- Dhurwa, District-Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O. & P.S.- Dhurwa, District-Ranchi, State-Jharkhand.
4. Superintendent, Sub Jail Ramgarh, P.O.- Jamira & P.S.

Rajrappa, District-Ramgarh, State-Jharkhand.

..... Respondent(s)

With

W.P.(S) No. 998 of 2022

.....

1. Sangeet Kumar, son of Dayanand Prasad, aged about 32 years, S/o Rajeshwar Bediya, resident of H.N. No. 332, Kailash Nagar, P.O. & P.S.- Chas, District-Bokaro (Jharkhand).
2. Chandan Kumar, aged about 53 years, Son of Rambriksh Prasad, resident of Chandandih, P.O., P.S. and District-Latehar, Jharkhand.
3. Md. Taman Alam, aged about 28 years, Son of Abdur Rahman, resident of Sasang, Kaima, P.O & P.S.- Kaima, District- Latehar, Jharkhand.
4. Birendra Mehtar, aged about 37 years, Son of Rajnath Mehtar, resident of Banpur, P.O., P.S and District-Latehar, Jharkhand.
5. Vivek Ram, aged about 49 years,Son of Sanichar Ram, resident of Chandandih, P.O., P.S and District-Latehar, Jharkhand.

..... Petitioner (s)

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Home, Jail and Disaster Management, Government of Jharkhand, Project Building, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
3. Inspector General of Prison, Jail Inspectorate, Government of Jharkhand, Engineers Hostel, Gol Chakar, Dhurwa, P.O & P.S – Dhurwa, District- Ranchi, State-Jharkhand.
4. Superintendent, District Jail Latehar, P.O & P.S – Latehar, District-Latehar, State-Jharkhand.

..... Respondent(s)

.....

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

.....

For the Petitioner(s) : Mr. Manoj Tandon, Amicus Curiae
: Mr. Rakesh Kumar, Adv.

For the Respondents : Ms. Omiya Anusha, A.C. to AAG-IA
Mr. Diyam, A.C. to S.C.-IV
Mr. Sushant Kumar, A.C. to S.C.-II
Mr. Priyadarshi, G.P.-VI
Mr. Uttam Kr. Das, A.C. to G.P.-VI

.....

C.A.V. ON: 07/09/2026 **PRONOUNCED ON:23/09/2026**

1. Heard learned counsel for the parties.

2. The batch of writ petitions filed under Article 226 of the Constitution of India impugn the decision contained in Letter No. 2714 dated 23.11.2021. Since common questions of law and facts are involved in all these cases, the same were heard together with consent of the learned counsels for the parties, and the same are decided by this common judgment.

Factual Settings

3. The facts of W.P.(S) No. 878 of 2022 would be sufficient to decide all these writ petitions and hence the facts of this writ petition are being taken into consideration. The writ petitioner was engaged as a Daily Wager on 19.06.2013 on sanctioned and vacant post of Driver in sub-Jail, Tenughat. The document dated 05.12.2021, in the shape of Annexure-1, has been placed on record to support this date of appointment. After the writ petitioner served for a considerable period, letter contained in Memo No. 2714/Jail dated 23.11.2021 was issued by the Inspector General (Prison) addressed to all the Superintendents of Central/Divisional/sub-Jails, whereby a direction has been given to all, to take the services through outsourcing. It has been mentioned in this letter that those who are working on Daily wages and even on sanctioned posts from before should come within the purview of outsourcing under the empaneled agencies.

4. This decision has been challenged by the petitioner in one or other writ petitions. On 01.10.2021, the Under Secretary to the Government, Department of Home, Prison and Disaster Management, wrote a letter to the I.G. (Prison) for compliance of decision dated 26.08.2021. This decision dated 26.08.2021 duly mentions the names of such twelve agencies who have been empaneled to supply manpower through outsourcing.

5. The petitioner has placed on record resolution dated 03.03.2021 issued by the State of Jharkhand, Home, Prison and Disaster Management Department, whereby altogether 183 persons including a number of drivers were regularised in the light of order passed by this Court dated 04.02.2019 in W.P.(s) No.6423 of 2014 and orders dated 9.10.2020 and 29.1.2021 passed in Cont. Case (Civil) No.415 of 2019.

6. When this matter was taken up initially on 22.09.2022, a Coordinate Bench of this Court passed an interim order to the effect that till further orders, henceforth, the State of Jharkhand shall not engage manpower through outsourcing agency on any sanctioned vacant post. At the same time, *Amici Curiae* was appointed to assist this Court on larger issue as to *whether against sanctioned and vacant posts, Government can engage through outsource agency*.

Argument advanced by the petitioners

7. Learned counsel for the petitioners, Mr. Rakesh Kumar

submits that the decision impugned is neither sustainable in law nor on facts. The petitioners were working for many years but when the petitioners started claiming regularisation, the impugned decision dated 23.11.2021 (Annexure-2) was taken to put the petitioners under the outsourcing agency, which is *per se* illegal. He, therefore, submits that the impugned order should be set aside and the petitioners should be allowed to continue.

Argument advanced by learned Amicus Curiae

8. Mr. Manoj Tandon, learned Amicus Curiae had submitted that from perusal of Annexure-1 dated 05.12.2021 and the annexure enclosed thereto disclose that the petitioner of W.P.(s) No. 878 of 2022 was appointed on 19.06.2013 as Daily Wager. Column 3 from left-hand side of *Prapatra*-II, at page 20 of the said writ application, discloses that the post on which this petitioner was appointed is a permanent post. He submits that this itself connotes that the post on which the petitioner is working is a sanctioned post.

9. It has been submitted that the impugned decision dated 23.11.2021 has been taken by the I.G. (Prison) just to oust these petitioners from the purview of regularisation as similarly situated, a number of persons, have been regularised by resolution dated 03.03.2021 in the light of the orders passed by this Court in W.P.(s) No. 6423 of 2014. Ld. Amicus Curiae has

further submitted that just to frustrate the claims of contractual / daily wages employees from the purview of regularization; the impugned decision was taken to take the work through outsourced agencies, that too, on sanctioned and vacant posts, which is *per se* arbitrary.

10. Ld. Amicus has further argued that the sanctioned and vacant posts are required to be filled up by regular appointment in consonance with the provisions enshrined in Articles 14 and 16 of the Constitution of India. Engaging persons through outsources, on sanctioned posts, is anathema to the Indian Constitution. Ld. Amicus has also submitted that it is a colourable exercise of power of the State of Jharkhand to engage persons through outsourcing on a sanctioned post.

11. It is next submitted that when the persons were working on daily wages or on contractual basis, the money directly used to go to the pocket of the daily wagers / contractual employees, but now, because of the persons being engaged through outsourcing, the main beneficiaries are the outsourced Agencies at the cost of such hard workers who spend their valuable part of life to perform such duties.

12. It has also been submitted that the constitutional Courts are duty-bound to act to safeguard those who are vulnerable to exploitation, so that employees are not compelled to meekly submit to the demands of a vastly dominant contracting party

like the State, but are instead assured that constitutional protections will intervene to prevent such exploitation.

13. Mr. Tandon has relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Narendra Kumar Tiwari v. State of Jharkhand & Ors.,*** reported in **(2018) 8 SCC 238** to contend that despite the observation of the Hon'ble Supreme Court that State of Jharkhand, just to short-circuit the process of regular appointments are making appointments on irregular basis, which was hardly a good governance, is indulged in making appointments on contractual and through outsourcing on sanctioned posts.

14. It has been submitted by Ld. Amicus that the Hon'ble Supreme Court specifically directed the State of Jharkhand in the case of ***Narendra Kumar Tiwari*** (*supra*) that henceforth, the State of Jharkhand would make only regular appointments and would drop the idea of making irregular appointments so as to short-circuit the process of regular appointments. It is, therefore, contended that the decision impugned dated 23rd November 2021 runs contrary to the law laid down by the Hon'ble Apex Court of India in the case of ***Narendra Kumar Tiwari*** (*supra*).

15. Ld. Amicus Curiae has further pointed out that the appointment through outsource agencies in sensitive places like jails is not commensurate to the constitutional scheme.

The employees are engaged through outsourcing and such employees / workers may be ousted anytime at the drop of a hat. The Government may not have any control to proceed against such outsourced workers even in case some serious misconduct is committed. He, therefore, submitted that in any case appointment through outsourcing in the sensitive places, like Home, Prison and Disaster Management Department and more particularly in jails, may not be permitted at any cost.

Argument advanced by the State.

16. Ld. Counsel for the respondent-State defends impugned decision dated 23rd November 2021. It has been submitted that the State of Jharkhand has power and jurisdiction to make appointments through outsourcing in view of the exigency of work. Referring to paragraphs nos. 10 and 11 of the Counter-Affidavit filed by Respondents 2 and 3, he had submitted that most of the Jails were suffering from shortage / scarcity of 4th grade category staffs and as such the decision was taken to outsource the work through outsourcing agencies.

17. It is the contention of the Ld. Counsel for the State of Jharkhand that in such matters, this Court should be slow to interfere.

Analysis and Reasons

18. From perusal of the materials on record and the arguments advanced by either side and learned Amicus, this

Court is of the view that the writ petitions deserve to be allowed for the following facts and reasons:-

(a) The document placed on record in the shape of Annexure-1 containing letter dated 1637-2021-jail dated 15-12-2021 and the appendix enclosed thereto disclose that the petitioners are working for more than a decade now. It further appears from *Prapatra*-II thereof that the post is permanent (*Asthai pad*). This document has not been denied by the respondents. Once the petitioners were working on a sanctioned post, that too for more than a decade, it was a case where the respondents should have taken steps for regularization of their services as was done with respect to the petitioners of *W.P.(s) No.6423 of 2014.*

(b) It appears from the document at Annexure-4 dated 03.03.2021, which is a resolution issued by the State of Jharkhand, that altogether 183 persons were regularised in the light of direction passed by this Court. All these persons were working on class-IV posts. After they rendered considerable period of service, their services were regularised. It appears to this Court that just to overcome the situation of regularisation of these petitioners, the decision contained in Annexure-2 dated 23.11.2021 was taken

to put these petitioners also under the outsource agencies. The decision impugned, therefore, is absolutely arbitrary, illegal, unconstitutional and in fact the same is in colourable exercise of power.

(c) The petitioners are working in one or the other jails. It is not denying a fact that Government has to take proper steps in accordance with law to make appointment on sensitive posts. The State of Jharkhand is duty bound to take step for regular appointment.

However, in view of the exigency of work, the Government has been taking work in one or the other jails from the employees on contractual / daily wage basis.

Now the State of Jharkhand has taken a further decision to engage the employees through outsource Agencies. Therefore, the entire control over such workers would be that of such outsourcing Agencies and not that of respondents-authorities. Any serious misconduct, if committed, the Government would have no control over such outsourced employees. This will create a chaos, which may not be permitted to be countenanced. Therefore, this Court holds that making

appointment through outsourced Agencies in one or the other Jails is *per se* arbitrary and illegal.

It is true that Government may have power to engage through outsourcing agency, but Government may not have this type of unbridled and uncontrolled power. Appointing a person on such sensitive posts, which are permanent and sanctioned posts, through outsourced agencies, is absolutely unconstitutional.

(d) Just because this Court passed order in the writ jurisdiction and the Government was compelled to regularise a number of persons, may not be a ground to put all these persons through outsourced agencies. In fact, similarly situated persons should have been treated similarly. Instead, the Government has decided by the impugned decision to put the petitioners in a precarious condition just to teach a lesson to them so that they may not claim regularisation of their services on the ground of continuance of more than 10 years.

(e) On perusal of the document in the shape of Annexure-A to the supplementary counter affidavit sworn by Director (Administration), Jail Inspectorate, Ranchi, it appears that there is a noting in the file dated 19.12.2022, whereby it has been placed on record that the Administrative Department has not

taken any policy decision for appointment through outsourcing.

The impugned decision in the writ petition is dated 23.11.2021 and this file noting placed on record is dated 19.12.2022. That means till the impugned decision was taken, there was no policy decision by the State of Jharkhand to engage through outsourcing. This Court, therefore, holds that the impugned decision dated 23.11.2021 and all other decisions which were taken pursuant to which the impugned decision dated 23.11.2021 was taken, are *per se* contrary to the set norms. If there was no policy decision taken to appoint through outsourcing, there was no reason to take such impugned decision by one or the other officers of the State of Jharkhand.

(f) The consistent performance of the petitioners over their long tenures further solidifies their claim for regularisation. At no point of time respondents raised any issues regarding their competence or performance. On the contrary, their services were extended repeatedly over the years. Therefore, where a lion contracts with a lamb, the inequality is not incidental but structural and it is precisely this disproportion that calls for judicial sensitivity.

(g) The action of the respondent-authority is nothing but a kind of exploitation of the petitioners. Instead of regularising the services of the petitioners after they have worked for more than a decade, the impugned decision has been slapped on them so that they are compelled to remain in a precarious condition.

(h) In the case of ***Narendra Kumar Tiwari*** (*supra*), the Hon'ble Supreme Court held in paragraphs 9, 10 and 12 as follows:-

> ***"9.*** *The High Court as well as the State of Jharkhand ought to have considered the entire issue in a contextual perspective and not only from the point of view of the interest of the State, financial or otherwise – the interest of the employees is also required to be kept in mind. What has eventually been achieved by the State of Jharkhand is to short circuit the process of regular appointments and instead make appointments on an irregular basis. This is hardly good governance.*
>
> ***10.*** *Under the circumstances, we are of the view that the Regularisation Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct etc.*
>
> ***12.*** *We may add that that it would be worthwhile for the State of Jharkhand to henceforth consider making regular appointments only and dropping the idea of making irregular appointments so as to short circuit the process of regular appointments."*
>
> *[Emphasis supplied]*

19. In view of the aforesaid observations of the Hon'ble Apex Court, the State of Jharkhand is duty bound to make regular appointments. Engaging the persons through outsourcing, that too on sanctioned posts, runs contrary to the judgment of the

Hon'ble Apex Court in the case of ***Narendra Kumar Tiwari*** (*supra*).

Conclusion.

20. In the light of what has been held above, the impugned decision dated 23rd November, 2021 and all decisions on the basis of which the impugned decision was taken, is / are set aside. The petitioners would remain as contractual / daily wages and would be entitled to the salary / wages as they used to get on or before 23rd November 2021 till their services are regularised.

21. In peculiar facts of the case, this Court by molding the relief, directs the Respondents to take steps for regularisation of services of the petitioners as they are similarly situated to those 183 persons who have been regularised by resolution dated 03.03.2021.

22. This exercise of regularisation should be completed within a period of 8 weeks from the date of receipt / production of a copy of this order.

23. The respondents are further restrained to engage any person through outsourcing on sanctioned post(s). The interim order dated 22.09.2022 passed by the Co-ordinate Bench of this Court in *W.P.(s) No. 878 of 2022*, is made absolute.

24. Before parting with this Judgment, this Court appreciates the assistance rendered by Mr. Manoj Tandon, learned *amicus*

curiae, who has burnt the midnight oil and assisted this court on each and every aspect of the matter.

25. Accordingly, these applications stand allowed. Pending I.A(s), if any, also stands closed.

26. Let a copy of this Judgment be given to the Secretary, Jharkhand High Court Legal Services Committee and also to the Ld. Amicus. The Secretary, Jharkhand High Court Legal Services Committee shall reimburse the learned Amicus on submission of bills. Fee for the learned Amicus shall be as per the existing guidelines.

(Deepak Roshan, J.)

Dated:23/09/2026
Amardeep/
A.F.R

Uploaded on
24/09/2026