

(2011) 11 AHC CK 0318
In the Allahabad High Court
Case No : Writ A. No. 62437 of 2011

Surendra Babu Shakya and Others

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Citation : (2011) 11 AHC CK 0318

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Judgement

Rajes Kumar, J.—The Petitioners have been engaged as Technical Assistant under the MANREGA scheme for the period 2006 to 2008. The Government Order has been issued laying down a fresh policy for the appointment of Technical Assistant. The writ petition was filed before this Court, in which the Government order has been set aside, against which special appeal has been filed, which has been allowed, against which SLP was filed before the Apex Court. By the order dated 18.12.2009 the Apex Court has stayed the operation and implementation of the impugned judgment. Subsequently, on 31.03.2010 the Apex Court has passed the order that until further orders, we direct that the process of selection on the post of Technical Assistant may continue but the Petitioners shall not be disturbed from the post on which they are working. The Writ Petition No. 920 of 2010 (SS) has been filed before the Lucknow Bench of this Court, wherein an statement has been made by learned Standing Counsel that on the basis of the instructions received from the Assistant Commissioner, Rural Development, Uttar Pradesh, to the effect that so long as Special Leave to Appeal Nos. 35284 & 35299 of 2009 are not finally decided by the Apex Court or the interim order is not vacated, the Technical Assistants already working under the National Rural Employment Guarantee Act, 2005 will be permitted to continue and fresh appointment shall be made only against the post which are lying unfilled.

2. The Petitioners filed Writ Petition No. 13929 of 2010 claiming to continue them on their services. The aforesaid writ petition has been entertained by this Court

and as interim measure it has been directed that the Petitioners shall also be entitled to the protection as has been made available to the Petitioners of Writ Petition No. 920 of 2010 (SS). However, the Respondents are at liberty to make fresh appointments on the vacant post. In pursuance of the said order, the Petitioners are working on the post of Technical Assistant. Now a letter dated 01.06.2011 has been issued by the Respondent No. 4, Project Director/Joint District Program Coordinator, "MANREGA", Sonbhadra to all Khand Vikas Adhikari to get the contract executed with those Technical Assistant, who are being appointed prior to 01.11.2010.

3. Learned Counsel for the Petitioner submitted that the Respondents are insisting to execute the contract for a period of one year and the said direction has been issued to circumvent the order of this Court and the order of the Apex Court to bound the Petitioners only for a limited period.

4. The matter requires consideration.

5. Learned Standing Counsel may file counter affidavit within a period of four weeks. Rejoinder affidavit may be filed within two weeks thereafter.

6. List thereafter along with the Writ Petition No. 23541 of 2010.

7. Till the next date of listing, the Petitioners may not be insisted to execute the contract bond in pursuance of the letters dated 17.8.2011 & 21.9.2011, annexures-1 & 2 to the writ petition. This direction will be subject to the final decision of the aforesaid S.L.P.