
(2014) 08 RAJ CK 0023
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4617/2014

Yamlay Khan

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 26-08-2014

Acts Referred:

Citation : (2014) 08 RAJ CK 0023

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Ashok Kumar Sen, Siddhnath Goswami, Anil Kumar, Brij Kishor, Mahendra Singh, Party-in-Person and Roopa Ram Panwar, Advocate for the Appellant; Rajeev Singh Thakur, Secretary and Anil Purohit, C.E.O, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Dr. Vineet Kothari, J.—The lawyers are observing strike which is contrary to various Supreme Court decisions. Name of Dr. Nupur Bhati, as the counsel for the petitioners, and name of Mr. Manish Patel, Addl. Govt. Counsel, are shown in the cause list.

2. Heard the petitioners, and the Secretary, Rural Development and Panchayat Raj Department and the Officer-in-Charge, who are present-in-person.

3. The petitioners have filed this writ petition in this Court on 20.06.2014 claiming following relief(s):-

"It is, therefore, humbly and respectfully prayed that this writ petition of the petitioner may kindly be allowed:-

A. By an appropriate writ, order or direction, the order dated 18.6.2014 (Annex. 8) and any other orders passed by the respondents terminating the services of the petitioners may kindly be quashed and set aside.

B. By appropriate writ, order or direction, the respondents may kindly be

directed to continue the petitioners on the post of Manager Community Mobilization and Capacity Building HR, IEC and PRO/Manager-Livelihood and Environment/Manager-Micro Finance/Manager-Monitoring and Evaluation and MIS or any other nomenclature until the scheme/project continues.

C. By an appropriate writ, order or direction, the respondents may kindly be directed to regularize the services of the petitioners with all consequential benefits.

D. By an appropriate writ, order or direction, in alternate, the respondents may kindly be directed to adjust the petitioners on the post of Assistant Programme Officer (MGNREGA) or any other appropriate post available with the respondents and continue them on the post until the posts are not filled by regularly selected persons.

E. Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner.

F. Writ Petition filed by the petitioner may kindly be allowed with costs."

4. By ad-interim orders dated 21.07.2014 and 18.08.2014 passed by this Court, the respondents were called upon to explain the said employment process of the present petitioners, who were working in the earlier scheme viz. "Swaranjayanti Gram Swarajgar Yojana as Aajeevika (for brevity, hereinafter referred to as "SGSY") as Managers. The said SGSY scheme under the National Rural Livelihood Mission was launched by the State Government under the funds provided by the Central Government. The Secretary, Rural Development and Panchayat Raj Department and the Officer-in-Charge, who are present-in-person, explained the said Scheme.

5. The petitioners have now filed a third stay petition on 23.08.2014, a copy whereof has been supplied to the Officer-in-Charge and the Secretary, Rural Development & Panchayati Raj Department, who are present in person. Along with the Third Stay Petition, the petitioners have produced a copy of the communication dated 21.08.2014 issued by the Project Director of the Rajasthan Gramin Aajeevika Vikas Parihsad, Jaipur to each of 9 (nine) petitioners for continuing their employment as Managers through the private placement agency, viz. M/s. Srijan Infra-Tech and Development Services, Jaipur. The said private placement, which has been engaged as a consultant by the respondent-State for providing the services and infrastructure for aforesaid National Rural Livelihood Mission of the State, has been directed to execute the Employment Agreement with all the present petitioners and supply a copy of the same to the respondent-Department. The petitioners have thus been assured of continuation of their employment through the aforesaid private placement agency.

6. Mr. Rajeev Singh Thakur, Secretary, Deptt. of Rural Development, Govt. of Rajasthan, Jaipur, present before the Court also assured the Court that said

project is as of now up to the year 2022 and a flexibility has been provided to the employment of State in relation to these persons through the placement agency, a separate contract has been executed by the respondent-State with the said private placement agency, namely, M/s. Srijan Infra-Tech & Development Services, Jaipur, for recruitment of such persons for working under the aforesaid poverty alleviation scheme of the State Government.

7. In view of the aforesaid assurance given to the Court and the communication dated 21.08.2014, this Court is of the opinion that the petitioners have been given the relief of continuity of their employment, which they sought by filing the present writ petition in the form of aforesaid communication dated 21.08.2014. Therefore, laying the challenge to the same, and asking for staying the operation of the said communication dated 21.08.2014 by filing third stay petition by the petitioners, is misconceived and the petitioners should approach the said private placement agency and get their employment agreements executed as communicated to them in the said communication dated 21.08.2014. The petitioners appearing before the Court have agreed to do so and have signed the order sheet in token thereof.

8. If, however, the petitioners have any cause of action in future against the said private placement agency, the petitioners will be free to avail legal remedy in accordance with the law when a cause of action arises to them. As of now, in view of aforesaid communication, the relief stands granted to the petitioners and the writ petition has thus become infructuous.

9. So far as the payment of salary/wages to the petitioners for the services rendered by them as Managers or the period under the SGSY scheme, i.e. before execution of the fresh employment agreement with the private placement agency is concerned, the petitioners will be at liberty to approach the respondents by way of making suitable representation to the Chief Executive Officers of the respective Zila Parishad(s) and subject to the verification of the work done by them, the respondents shall make appropriate orders in accordance with law for making payment to the petitioners for the period upto the execution of new Employment Agreement.

10. The writ petition, and so also, the Third Stay Petition No. 5586/2014, are accordingly disposed of. No costs. A copy of this order be sent to the concerned parties forthwith.