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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE

&
HON'BLE SHRI JUSTICE PURUSHAINDRA KUMAR KAURAV
ON THE 4th OF APRIL, 2022

WRIT PETITION No. 13717 of 2021

Between:-

1. DEEPTI PANDEY D/O SANTOSH PANDEY, AGED ABOUT 27 YEARS, OCCUPATION: VOCATIONAL TRAINER, GIRLS HIGHER SECONDARY SCHOOL, BIJAWAR PANDEY COLONY, BIJAWAR, DISTRICT CHHATARPUR (M.P.)
2. SONAL GUPTA D/O SHRI SANTOSH KUMAR GUPTA, AGED ABOUT 27 YEARS, OCCUPATION: VOCATIONAL TRAINER, GOVT. GIRLS HIGHER SECONDARY SCHOOL, NAUGAON, HARIHAR ROAD, HARPALPUR, DISTRICT CHHATARPUR (M.P.)
3. ABHISHEK PATHAK S/O SHRI LAKHAN PATHAK, AGED ABOUT 26 YEARS, OCCUPATION: VOCATIONAL TRAINER, HIGHER SECONDARY SCHOOL, KHAIRAKALA BIJAWAR, R/O NEAR BHOLAGIR MANDIR, DISTRICT CHHATARPUR (M.P.)
4. PARSHURAM AGRAWAL S/O SHRI MAKHAN LAL AGRAWAL, AGED ABOUT 30 YEARS, OCCUPATION: VOCATIONAL TRIANAR GOVERNMENT EXCELLENCE HIGHER SECONDARY SCHOOL, BADA MALHARA, CHHATARPUR, R/O WARD NO. 17 CHHATRASAL NAGAR, NEW PANNA NAKA, DISTRICT CHHATARPUR (M.P.)
5. NAVEEN NAMDEO S/O LATE HARI RAM NAMDEO, AGED ABOUT 38 YEARS, OCCUPATION: VOCATIONAL TRAINER GOVERNMENT GIRLS HIGHER SECONDARY SCHOOL, RAJNAGAR CHHATARPUR, R/O WARD NO. 21, RANI LAXMI WARD, BADA BAZAR ROAD, DISTRICT PANNA (M.P.)

Between:-

SAURABH KUSHWAH S/O SHRI SEVARAM
KUSHWAH, AGED ABOUT 27 YEARS,
OCCUPATION: TEACHER AT PRESENT
UNEMPLOYED, R/O WARD NO. 15, BEHIND
GHATI WALI DHARMSHALA, GANJBASODA,
DISTRICT VIDISHA (M.P.)

.....PETITIONER

(BY SHRI GULJAR RAJPUT - ADVOCATE)

AND

1. UNION OF INDIA THROUGH SECRETARY,
DEPARTMENT OF SCHOOL EDUCATION AND
LITERACY, MINISTRY OF HUMAN RESOURCES
AND DEVELOPMENT, LAL BAHADUR SHASTRI
SMRITI, MOLANA AZAD ROAD, BHALBHAWAN,
MAAN SINGH ROAD, NEW DELHI-110001
2. UNION OF INDIA THROUGH SECRETARY
NATIONAL SKILL DEVELOPMENT COUNCIL, 301
3rd FLOOR, WEST WING, WORLD MARK, ASSET
11, AERO CITY, NEW DELHI -110037
3. STATE OF MADHYA PRADESH THROUGH
PRINCIPAL SECRETARY, SCHOOL EDUCATION
DEPARTMENT, VALLABH BHAWAN, BHOPAL
(M.P.)
4. COMMISSIONER, DIRECTOR PUBLIC
INSTRUCTIONS, GAUTAM NAGAR, HOUSING
BOARD COLONY, BHOPAL (M.P.)

.....RESPONDENTS

(SHRI SWAPNIL GANGULY - DEPUTY ADVOCATE GENERAL FOR
RESPONDENTS NO.3 AND 4)

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These petitions coming on for admission this day, Hon'ble Shri Justice

Ravi Malimath, Chief Justice passed the following:

ORDER

Since common questions of fact and law are involved in this batch of writ petitions, therefore, they are heard together and disposed off by this order.

2021 are taken into consideration.

The petitioners have filed this writ petition challenging the work order dated 17.07.2021 (Annexure P/4) issued by the respondent No.3 - Commissioner. In terms whereof, the selected Vocational Training Providers (VTPs) have been allotted schools as per the list Appendix-1 enclosed thereto for imparting vocational education. They have been further asked to ensure presence of one Vocational Trainer per trade in every school allotted to the VTPs by 31.08.2021 as per the agreement and instructions attached thereto. It is further required that the minimum educational qualification of the Vocational Trainer shall be in accordance with the parameters prescribed in Appendix-2 and for these selections, a transparent procedure as per Appendix-3 shall be adopted.

The case of the petitioners is that they were appointed to the post of Vocational Trainers through an outsourcing agency in the year 2016. Their appointment made through an outsourcing agency is in line with the circular dated 24.03.2017 (Annexure P-2) issued by the Deputy Secretary to the Government of India, Ministry of Human Resource Development, Department of School Education and Literacy, New Delhi to the Principal Secretaries (School Education) of all States/UTs regarding the guidelines for enlisting quality contractual Vocational Trainers in the schools. Clause 2.0 of the said circular provided for dual mode of engagement of Vocational Trainers by the State. Under sub-clause (i) thereof, appointment of Vocational Teachers/Trainers in schools could be made directly as per the qualification and experience provided therein and under sub-clause (ii) such appointment could be made through Vocational Training Providers in accordance with the criteria

option. They continued on the mercy of the outsourcing company. However, respondent No.3 has made certain communications from time to time either interfering with their appointments or the payments. The petitioners were communicated by the District Education Officer that in the light of a letter dated 30.03.2020 (Annexure P-5) issued by the Commissioner, Directorate of Public Instructions, Bhopal pertaining to the session 2019-20, sooner or later the services of Vocational Trainers could be brought to an end. However, since they were later on absorbed by the State Government by promising grant of Rs.645/- per day as wages, therefore, the said communication dated 30.03.2020 was not given effect to.

It is further submitted that the petitioners have rendered about 4-5 years of service as on date and are still continuing in service as such. All of a sudden, by the impugned order dated 17.07.2021 (Annexure P-4), the respondent No.3 has issued the work order to the selected Vocational Training Providers for the session 2021-22, *inter alia* for making fresh appointments of Vocational Trainers in place of the present incumbents of the post of Vocational Trainers. Consequently, the petitioners are on the verge of being ousted from the concerned schools. In the event the respondents are allowed to proceed with the impugned order, the services of the petitioners would be put to an end and they will have to face the fresh selection process to secure appointment. It is contended that once the petitioners are discharging their duties on the post of Vocational Trainers, replacing them by another set of Vocational Trainers is untenable in the eye of law. As such, the prayer sought for in all these petitions is primarily to the effect that the posts being held by the petitioners be continued in the present form. That the contentions of the respondents cannot

be accepted for the various grounds urged therein.

Thereafter, an interim order dated 17.08.2021 has been granted to the effect that the petitioners shall be continued as Vocational Trainers, without being required to face any new selection process, in preference to the fresh hands, etc.

Thereafter, the State have filed a detailed reply dated 28.09.2021. It is stated therein that the responsibility on the Vocational Trainers is very heavy. The recruiting agency/VTPs also have liability of not only providing vocational training but also of placement to eligible students. If the bright Vocational Trainers do not get selected, best results cannot be expected from them. Therefore, the selection process which comprises of a written test, interview, evaluation of teaching and communication skill, etc. is necessary in the present scenario. Hence, a fresh advertisement has been issued with a detailed selection procedure and qualification, etc. for selection of Vocational Trainers so as to get meritorious and competent Vocational Trainers. There will be no prejudice caused to the petitioners as a methodic approach has been adopted by the State by giving a weightage of three marks for every one year of work experience as Vocational Trainer upto maximum of 15 marks to the Vocational Trainers, who have earlier rendered their services as Vocational Trainers and participate in the selection process.

Presently, an application has been filed in I.A.No.4243 of 2022, wherein the respondents have stated that they have reconsidered the entire issue. That keeping in mind the problems faced by the writ petitioners and the interest of the State, they have stated as follows:

"2. That, the present matter came up for consideration before this

matter on 30.03.2022, the matter has been considered by the appropriate authority and the following is the submissions on behalf of the State Government.

(A) That, in W.P.No.13717 of 2021 and the other connected matters are pertaining to Vocational Trainers, it is a common contention of the petitioners that they possess the requisite eligibility criteria and they have earlier inducted through certain mechanism known to law/selection process and in these circumstances, they should not be forced to undergo with fresh selection process through Vocational Training Providers (VTPs). In this context now the State Government is considering that if the individual petitioners submit their qualification along with the mode of induction as Vocational Trainer with previous experience to their respective Principal of the School in which they are working presently within a period of 10 days then the concerned principal of the school will forward the same to the concerned District Education Officer, wherein a committee comprising of concerned District Education Officer and representative of an outsourcing agency will scrutinize the minimum eligibility qualification of the candidate/ Vocational Trainer/ petitioners and their mode of induction. Thereafter if the petitioners/ concerned Vocational Trainer is eligible then without undergoing further with any selection process they will be taken by concerned Vocational Training Providers (VTPs) and if they are not eligible either minimum qualification or their induction is not proper then the aforesaid committee will pass a reasoned order.

(B) That, it is also respectfully submit that, after the aforesaid exercise as indicated herein above will complete the engagement order of the VTs will be issued by the concerned Vocational Training Providers (VTPs) in which it will be categorically mentioned that, the scrutiny as indicated herein above as done by the above committee is only for the purpose to provide minimum skilled manpower to the concerned Vocational Training Providers and the petitioners/Vocational Trainers will not claim any further equity in law and may not claim any permanency with the State Government.

(C) That, the time of issuance of engagement order if in one school or in one job role more than one persons are become eligible and are claiming their rights then at that point of time,

candidate and from the available the best meritorious (qualification and experience) persons will be appointed."

Therefore, Shri Swapnil Ganguly - learned Deputy Advocate General appearing for the respondents-State submits that in terms of what is stated hereinabove, the same will be complied with by the State which should necessarily protect the interest of the petitioners. It is further stated by him that this is only going to be a one time measure and the petitioners will not be asked to go through any examination once again.

In view of the affidavit filed by the State and the statement made by the learned Deputy Advocate General, the petitioners have no grievance to espouse.

Hence, in view of the aforesaid statement of the State, the petitions are disposed off in terms of the application/affidavit filed in the Court dated 31.03.2022.

Pending interlocutory applications, if any, are also disposed off.

(RAVI MALIMATH)
CHIEF JUSTICE

(PURUSHAINDR KUMAR KAURAV)
JUDGE