

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 1<sup>st</sup> OF NOVEMBER, 2022

WRIT PETITION NO. 22236 OF 2022

Between:-

TAKHAT SINGH YADAV S/O SHRI  
GYAN SINGH YADAV, AGE 30  
YEARS OCCUPATION- SERVICE  
R/O TODA, KARERA, DISTRICTY  
SHIVPURI (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI NAVEEN KUMAR SAXENA- ADVOCATE)*

AND

1. MADHYA PRADESH  
WAREHOUSING AND LOGISTIC  
CORPORATION THROUGH  
MANAGING DIRECTOR MAHDYA  
PRADESH WAREHOUSING  
CORPORATION, BHOPAL
2. REGIONAL MANAGER MADHYA  
PRADESH WAREHOUSING  
CORPORATION, BHOPAL
3. BRANCH MANAGER, MADHYA  
PRADESH WAREHOUSING AND  
LOGISTIC CORPORATION,  
GWALIOR

....RESPONDENTS

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*This petition coming on for hearing this day, the Court passed the following:*

**ORDER**

This petition under Article 226 of the Constitution of India has been filed seeking following reliefs :

(7.1) यह कि, रेस्पॉन्डेन्ट क्र. 1 को निर्देशित किया जावे कि एनेक्जर पी-1 का पत्र निरस्त किया जाकर श्रमिक की नियुक्ति तथा वेतन प्रदाय के सन्दर्भ में पूर्व प्रोसेस को ही बरकरार रखे।

(7.2) यह कि, रिस्पॉन्डेन्ट क्र. 1 को यह भी निर्देशित किया जावे कि पूर्व में जो नियुक्ति तथा वेतन प्रदाय का प्रोसेस चल रहा था उसे ही जारी रखा जाकर रिस्पॉन्डेन्ट क्र. 3 को नियुक्ति सम्बन्धी अधिकार यथावत रखे।

It is submitted by the counsel for the petitioner that the petitioner is working as daily wager from the year 2008 and thus they have completed 14 long years of their service as daily wager and now, the respondents have appointed an outsource agency for providing manpower. As a result, the petitioner is not being permitted to work as a daily wager. It is further submitted that the Coordinate Bench of this Court by order dated 21.09.2022 passed in the case of **Rajesh Patel and Others vs. Madhya Pradesh Warehousing and Logistic Corporation and Others** by order dated **21.09.2022** passed in **W.P. No. 21099/2022** has issued notices and has passed interim order.

*Per contra*, the petition is vehemently opposed by the counsel for the State. It is submitted that this Court in **W.P. No.22480 of 2022 (Ramnaresh Suman and Others vs. State of M.P and Others)** by order dated **11.10.2022** has already dismissed the similar writ petition. The petitioner is working as daily wager. He has not clarified as to whether

his original appointment was irregular or legal or was a backdoor entry. Merely because a decision has been taken to hire the labourers through an outsource agency would not adversely affect the rights of the petitioner. It is further submitted that dispute is already pending before Labour Commissioner, Bhopal.

Heard the learned counsel for the parties.

The petitioner has relied upon the Viniyamitikan Scheme dated 07.10.2016. The question raised by the petitioner is squarely covered by the order passed by this Court in the case of **Ramnaresh Suman (supra)** which reads as under:-

This petition under Article 226 of the Constitution of India has been filed seeking following reliefs:

- (i) That, this Hon'ble Court may kindly be pleased to allow this petition and further be pleased to quash and set aside the impugned orders Annexure P/1 to P/3 so far relating to service condition of petitioners.
- (ii) That, a further direction may kindly be given to the respondents to consider the cases of petitioners for regularization and for granting status of Sthai Karmi with consequential benefits.
- (iii) That, respondents may further be directed not to change the service conditions of petitioners to their disadvantage and not to change the employer of petitioners against the law.
- (iv) Any other relief, which this Hon'ble Court may deem fit and proper may also be given to the petitioners along with interest and costs.

It is submitted by the counsel for the petitioners that they were appointed on daily wages by order dated 1.6.2018 and now the respondents have appointed an outsource agency for supplying the manpower which is detrimental to the rights of the petitioners. It is further submitted that a Coordinate Bench of this Court by **order dated 30.9.2022 passed in the case of Kamil**

**Mohammad and others vs. State of M.P. and others in W.P.No.22296/2022** has passed an interim order and has directed the respondents not to change service conditions of the petitioners.

Heard the learned counsel for the petitioners.

The counsel for the petitioners could not point out any substantive right of the petitioners as they are working as daily wagers. The Co-ordinate Bench of this Court in the case of **Kamil Mohammad (supra)** has issued notices and has passed an interim order on the ground that the petitioners therein would be deprived of policy of Viniyamitikan dated 7.10.2016 by which daily wagers can be granted status of *Sthai Karmi*. However, it is fairly conceded by the counsel for the petitioners that the petitioners were appointed after 2016 i.e., on 1.6.2018, therefore they are not entitled for consideration of their case under Viniyamitikan Scheme of the year 2016.

During course of arguments it was submitted by the counsel for the petitioners that the appointment of respondent No.5 as an outsource agency is clearly violation of Contract Labour (Regulation and Abolition) Act, 1970 and Madhya Pradesh Industrial Employment (Standing Orders) Act as well as the provisions of Industrial Disputes Act. However, the counsel for the petitioners also drawn the attention of this Court to an order dated **26.9.2022** passed by the Co-ordinate Bench of this Court in the case of **Nigam Mandal Adhikari Karmchari Sangh through its President Ramswarup vs. State of M.P. and others** passed in **W.P.No.11442/2022 (Indore Bench)** and submitted that the notices have been issued.

It is also conceded by the counsel for the petitioners that the Association has also approached the Labour Commissioner against the appointment of an outsource agency and accordingly, by order dated 21.9.2022 an interim order has been passed by the Assistant Labour Commissioner, Bhopal.

Considered the submissions made by the counsel

for the petitioners.

It is the case of the petitioners that the subject matter in dispute is already pending consideration before the Assistant Labour Commissioner, Bhopal Division, Bhopal. Thus, no useful purpose would be served by entertaining the parallel proceedings.

At this stage, it is submitted by the counsel for the petitioners that the respondents are not ready to accept the interim order passed by the Assistant Labour Commissioner, Bhopal Division, Bhopal.

The said submission made by the counsel for the petitioners cannot be accepted for entertaining a parallel proceeding. If the interim order passed by the Assistant Labour Commissioner, Bhopal Division, Bhopal is being flouted by the respondents, then the Association has an efficacious remedy under the law. Since the petitioners are claiming violation of Industrial Disputes Act, Contract Labour (Regulation and Abolition) Act, 1970 and Madhya Pradesh Industrial Employment (Standing Orders) Act therefore, this Court is of the considered opinion that even otherwise the petitioners have an efficacious remedy to approach the Labour Court. Under these circumstances, no case is made out for entertaining the writ petition.

The petition fails and is hereby **dismissed**.

Since the petitioner has failed to point out violation of any of his right, no case is made out for interfering in the matter.

The petition fails and is hereby **dismissed**.

**(G.S. AHLUWALIA)**  
**JUDGE**