

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 7401 of 2019

1. Mrityunjay Kumar, Aged about 40 years, son of Sri Bipad Bhanjan Mahto, Resident of Village Joreya, P.O. Joreya, P.S. Sonahatu, District-Ranchi
2. Sandhya Kumari, Aged about 46 years, daughter of Sri Dwarika Prasad Singh, Resident of RIMS Road, Pahan Toli, P.O. RMCH, P.S. Sadar, District-Ranchi.
3. Daya Sanker, Aged about 36 years, son of Sri Thakur Prasad Singh, Resident of Village Sri Nagar Colony (Tetri Toli) P.O. & P.S. Namkum, District-Ranchi
4. Bernard Barwa, Aged about 48 years, son of late Francis Barwa, Resident of Lowadih, P.O. & P.S. Namkum, District-Ranchi.
5. Birendra Singh Bhoghta, Aged about 44 years, son of late Mahesh Singh Bhoghta, Resident of Simaliya, P.O. Childag, P.S. Angara, District-Ranchi.
6. Sanubala Kumari, Aged about 35 years daughter of late Muneshwar Pramanik, wife of Sri Ashok Pramanik, Resident of House No. 135, Village Hotwasi, P.O. & P.S. Balalong, District-Ranchi.
7. Beronica Keronesia Horo, Aged about 48 years, daughter of Simon Horo, Resident of Village Ganeur, P.O. Taro Siladon, P.S. Khunti, District-Ranchi.
8. Esther Juliyani Barla, Aged about 38 years, Daughter of Sri Sushil Kumar Barla, Resident of Village Barkakura, P.O. Hete, P.S. Lapung, District-Ranchi.
9. Hiralal Mahto, Aged about 41 years, son of Sri Bodh Nath Mahto, Resident of Village Sataki, P.O. Sataki, P.S. Angara, District-Ranchi.
10. Balkesh Mahto, Aged about 47 years, son of Sri Bodhram Mahto, Resident of Village Angara, P.O. & P.S. Angara, District-Ranchi.
11. Sharwan Kumar, Aged about 46 years, son of Sri Hari Nandan Choudhary, Resident of Village Pirtol, P.O. & P.S. Angara, District-Ranchi.
12. Sanjay Kumar, Aged about 40 years, son of late Shashi Bhusan Pramanik, Resident of Village Bongadar, P.O.- T.T. Mankidih, P.S. Sonahatu, District-Ranchi
13. Pankhraj Singh Munda, Aged about 46 years, son of Sri Ripusudan Singh Munda, Resident of Ichadih, P.O. Ulidih, P.S. Tamar, District-Ranchi.
14. Krishna Machhuwa, Aged about 47 years, son of Sri Etwa Machhuwa, Resident of Sonahatu, P.O. & P.S. Sonahatu, District-Ranchi.
15. Shankar Munda, Aged about 38 years, son of Sri Neel Kamal Munda, Resident of Village Mankidih, P.O. & P.S. Tamar, District-Ranchi.
16. Dulal Chandra Singh Munda, Aged about 42 years, son of Sahdev Singh Munda, Resident of Kudda, P.O. Vijaygiri, P.S. Tamar, District-Ranchi.
17. Dhaneshwar Singh, Aged about 48 years, son of late Sahajram Mahto, Resident of Village+P.O. Baredih, P.S. Tamar, District-Ranchi.

18. Purna Chandra Singh Munda, Aged about 43 years, son of Sri Sudhir Singh Munda, Resident of Village Gango, P.O. Jargo, P.S. Tamar, District-Ranchi.
19. Ram Singh Munda, Aged about 37 years, son of late Doman Munda, Resident of Village Kateyadh, P.O. & P.S. Rahe, District-Ranchi.
20. Jayswal Oraon, Aged about 44 years, son of Sri Fekla Oraon, Resident of Village Ambajhariya, P.O. & P.S. Angara, District-Ranchi.
21. Sabita Kumari, Aged about 40 years, daughter of Sri Thakur Das, wife of Sri Nand Kishore Mahto, Resident of Village Thungrudih, P.O. Nawadh, P.S. Sonahatu, District-Ranchi.
22. Pushkar Swansi, Aged about 37 years, son of Sri Matwar Swansi, Resident of Village Sinchayee Colony, P.O. & P.S. Bundu, District-Ranchi.
23. Anand Singh Munda, Aged about 38 years, son of Sri Doman Singh Munda, Resident of Village Tilaimarch, P.O. Reladh, P.S. Bundu, District-Ranchi.
24. Ghanshyam Mahto, Aged about 40 years, son of Sri Parsnath Mahto, Resident of Village Dalkidih, P.O. Reladh, P.S. Bundu, District-Ranchi.
25. Deepak Mahto, Aged about 36 years, son of Sri Kalipad Mahto, Resident of Village Peraidih, P.O. Janumpiri, P.S. Tamar, District-Ranchi.
26. Balram Mahto, Aged about 40 years, son of Sri late Rameshwar Mahto, Resident of Village Sundardih, P.O. Janumpri, P.S. Tamar, District-Ranchi.
27. Dalgobind Mahto, Aged about 46 years, son of Sawna Mahto, Resident of Village Purana Lowadh (near Old Biscuit Factory) P.O. Samlong, P.S. Namkum, District-Ranchi.
28. Aasu Seth, Aged about 37 years, son of Budhanlal Seth, Resident of Village Jegodakai, Sarjamdh, P.O. & P.S. Tamar, District-Ranchi.
29. Pitamber Singh Munda, Aged about 37 years, son of Sri Sohan Singh Munda, Resident of Village Tamar, P.O. & P.S. Tamar, District-Ranchi.
30. Dhananjay Puran, Aged about 43 years, son of Sri Bharat Puran, Resident of Village Timpur, P.O. Ulidih, P.S. Tamar, District-Ranchi.
31. Subodh Kumar, Aged about 37 years, son of Sri Kamla Kant Mahto, Resident of Village Landupdh, P.O. Landupdh, P.S. Sonahatu, District-Ranchi.
32. Pradip Kumar Mahto, Aged about 43 years, son of Sri Shankar Mahto, Resident of Village Pandudih, P.O. Barendra, P.S. Sonahatu, District-Ranchi.
33. Shasthi Kumari Baraik, Aged about 41 years, daughter of late Chaitan Baraik, Resident of Village Perengchawli, P.O. Jamudag, P.S. Sonahatu, District-Ranchi.
34. Akshay Kumar Mahto, Aged about 50 years, son of Sri Tribhuwan Mahto, Resident of Village Pedaidih, Janumpidi, P.O. & P.S. Tamar, District-Ranchi.
35. Santosh Tigga, Aged about 50 years, son of late Mansidh Tigga, Resident of Tutihara, Rajaulatu, P.O. Jamchuma, P.S. Namkum, District-Ranchi.

36. Lucy Emarita Kandulna, Aged about 49 years, daughter of late Marcus Kandulna, Resident of Khorha Toli, Mission Colony, P.O. Kokar, P.S. Sadar, District Ranchi.
37. Pramod Kachhap, Aged about 36 years, son of late Ashab Kachhap, Resident of Village Sarjomdih (Rampur), P.O. Rajaulatu, P.S. Namkum, District - Ranchi.
38. Mr. Joseph Gari, Aged about 35 years, son of Karma Gari, Resident of Tang Tang Toli, P.O. Sithio, P.S. Dhurwa, District-Ranchi.
39. Anita Ekka, Aged about 45 years, wife of Subash Tirkey, Resident of Hesag Bagicha Toli, P.O. Hatia, P.S. Jagarnathpur, District-Ranchi

... .. **Petitioners**

Versus

1. State of Jharkhand
2. Principal Secretary, Rural Development Department, Govt. of Jharkhand having office at Project Building, P.O. & P.S. Dhurwa, District-Ranchi.
3. Divisional Commissioner, South Chotanagpur Division having office at Kutchery Road, P.O, G.P.O. P.S. Kotwali, District-Ranchi.
4. Deputy Commissioner, Ranchi having office at Kutchery Road, P.O, G.P.O. P.S. Kotwali, District Ranchi
5. District Rural Development Authority, Ranchi through its Chairman having office at having office at Kutchery Road, P.O, G.P.O. P.S. Kotwali, District Ranchi
6. Deputy Collector, District Establishment, Ranchi having office of Deputy Commissioner-cum-District Magistrate, Ranchi, Kutchery Road, P.O. G.P.O., P.S. Kotwali, District-Ranchi.

... .. **Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioners : Mr. Sameer Saurav, Advocate
For the Respondents : Mr. Sreenu Garapati, Advocate

07/24.03.2022

Heard Mr. Sameer Saurav, learned counsel appearing on behalf of the petitioners.

2. Heard Mr. Sreenu Garapati, learned counsel appearing on behalf of the respondents.

3. This writ petition has been filed for the following reliefs:

“(i) For issuance of an appropriate writ(s)/order (s)/direction(s) or a writ in nature of certiorari for quashing of letter issued vide Memo No. 1006 (ii)/Establishment dated 13.8.2019 (Annexure-9) passed by the Respondent No. 6 by which it has been directed to all the B.D.O. to not send the proposal of regularization of MNREGA employee.

AND

(ii) For issuance of an appropriate writ(s)/order (s)/direction(s) or a writ in nature of mandamus

commanding upon the respondents to regularize the services of the petitioners who are working on the sanctioned post of Gram Rojgar Sewak for more than 10 years in the light of the Gazette Notification dated 4.3.2015, Notification vide Memo No. 4871 dated 20.6.2019 and Letter No. 5535 dated 12.7.2019.

AND/OR

(iii) For any other consequential relief or relief (s) to which the petitioner is duly entitled in the eyes of law considering the facts and circumstances of the case.”

4. The learned counsel for the petitioners submits that all the petitioners are belonging to District Ranchi. He submits that as per the impugned letter as contained in Annexure-9, the applications for consideration of regularization of persons employed under the MNREGA scheme are not being accepted, but similar applications are being accepted in other districts of the State of Jharkhand.

5. The learned counsel appearing on behalf of the petitioners further submits that the respondents cannot be selective in considering the regularization of MNREGA employees.

6. The learned counsel appearing on behalf of the respondents has submitted that the impugned order has been rightly issued, in as much as, the employment under MNREGA is purely contractual. The persons are employed only for a period of one year and then, their employment is terminated and they are employed as and when they are required. The employment under MNREGA is guided by the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 and therefore, there is no question of regularization of these persons. He further submits that as on date, there is no scheme for regularization of such persons.

7. The learned counsel for the respondents also submits that the similar issue with regard to Jawahar Rozgar Yojna has been decided by the Hon'ble Supreme Court in the judgement reported in **(1992) 4 SCC 99 (Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi and Others)** (para 22). He submits that there is no question of any selective application of any scheme for regularization with regard to MNREGA. He also submits that if any such scheme is floated by the government, the same would certainly take care of all the districts as per policy. The learned counsel submits

that as on date, there is no scheme for regularization for MNREGA employees and therefore, no relief can be granted to the petitioners.

8. After hearing the learned counsel for the parties and considering the facts and circumstances of this case, it is observed that the petitioners have not produced or placed on record any scheme for regularization of persons employed under MNREGA. It is not in dispute that such persons are governed by the Act namely Mahatma Gandhi National Rural Employment Guarantee Act, 2005. It is sufficient to observe that if ever the respondents come up with any such scheme for regularization of MNREGA employees, they cannot be arbitrary and selective. If any such occasion arises later, the petitioners may have their remedy in accordance with law.

9. At this stage, this Court is not inclined to grant any relief to the writ petitioners under Article 226 of the Constitution of India. This writ petition is accordingly disposed of.

10. Pending interlocutory application, if any, is closed.

(Anubha Rawat Choudhary, J.)