IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Reserved on : 30.09.2026
Pronounced on : 22.10.2026
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SWP No. 741/2013 c/w SWP No.732/2013
SWP No. 1068/2013, SWP No. 1231/2013
SWP No. 1260/2013, SWP No. 1781/2013
SWP No. 2549/2013, SWP No. 2550/2013
SWP No. 2670/2013, SWP No. 330/2014
SWP No. 3285/2014, SWP No. 2763/2016
SWP No. 3050/2017, SWP No. 373/2018
SWP No. 392/2018, SWP No. 398/2018
CPSW No. 547/2018, SWP No. 614/2018
SWP No. 712/2018, CPSW No. 719/2018
CPSW No. 723/2018, CPSW No. 724/2018
SWP No. 805/2018, SWP No. 879/2018
SWP No. 880/2018, SWP No. 1645/2018
SWP No. 1652/2018, SWP No. 1669/2018
SWP No. 1687/2018, SWP No. 1719/2018
SWP No. 1720/2018, SWP No. 1731/2018
SWP No. 1739/2018, SWP No. 1745/2018
SWP No. 1749/2018, SWP No. 1751/2018
SWP No. 1770/2018, SWP No. 1773/2018
SWP No. 1781/2018, SWP No. 1788/2018
SWP No. 1789/2018, SWP No. 1831/2018
SWP No. 1836/2018, SWP No. 1839/2018
SWP No. 1849/2018, SWP No. 1865/2018
SWP No. 1880/2018, SWP No. 1898/2018
SWP No. 1920/2018, SWP No. 1930/2018
SWP No. 1945/2018, SWP No. 1962/2018
SWP No. 1975/2018, SWP No. 1992/2018
SWP No. 2014/2018, SWP No. 2033/2018
SWP No. 2112/2018, SWP No. 2138/2018
SWP No. 2209/2018, SWP No. 2560/2018
SWP No. 195/2019, CCP(S) No. 331/2019
CCP(S) No.627/2019,WP(C) No.1660/2019,
CCP(S) No. 96/2020,CCP(S) No. 210/2020,
CCP(S) No. 218/2021,CCP(S) No. 219/2021
CCP(S) No.220/2021,
WP(C) No. 470/ 2021,
CCP(S) No. 81/2022,
CCP(S) No. 247/2022,
WP(C) No. 927/2022,
WP(C) No. 2922/2023,
WP(C) No. 2946/2023

Sheraz Anjum and Ors. …. Appellant(s)/Petitioner(s)

Through:- Mr. Abhirash Sharma, Advocate
in **SWP No. 741/201**3.
Mr. R. K. S. Thakur, Advocate
in **SWP No. 708/2010**.
Mr. K. L. Pandita, Advocate
in **SWP No. 732/2013, SWP No. 1260/2013, SWP No. 1781/2013, SWP No. 373/2018, SWP No. 1669/2018, SWP No. 1687/2018, SWP No. 1751/2018, SWP No. 1839/2018, SWP No. 1880/2018, SWP No. 2209/2018, SWP No. 1836/2018**.
Mr. Mohsin Bhat, Advocate
in **SWP No. 1068/2013, SWP No. 330/2014, CCP(S) No. 218/2021, CCP(S) No. 219/2021, CCP(S) No. 220/2021**.
Mr. Achal Sharma, Advocate
in **SWP No. 2549/2013, SWP No. 1652/2018, SWP No. 1745/2018, SWP No. 1788/2018, SWP No. 1849/2018**.
Mr. Karman Singh Johal, Advocate
In **SWP No. 392/2018, SWP No. 805/2018, SWP No. 879/2018.**
Mr. Vivek Sharma, Advocate
In **SWP No. 398/2018, SWP No. 2560/2018, WP(C) No. 2946/2023.**
Mr. Mazher Ali Khan, Advocate
In **SWP No. 1731/2018**
Mr. N. D. Qazi, Advocate with
Mr. Amir Ajaz, Advocate
In **SWP No. 1645/2018, SWP No. 1719/2018, SWP No. 1749/2018, SWP No. 1770/2018, SWP No. 1945/2018, SWP No. 2112/2018, CCP(S) No. 627/2019, WP(C) No. 2922/2023**
Mr. Anil Kumar Verma, Advocate
In **SWP No. 1669/2018**
Mr. Rahul Raina, Advocate vice
Mr. S. S. Ahmed, Advocate
SWP No. 1920/2018.
Mr. Sunil Sethi, Sr. Advocate with
Mr. Nahiem Sheikh, Advocate
In **SWP No. 1669/2018**.
Mr. Sheikh Anwar, Advocate vice
Mr. F. S. Butt, Advocate.
Mr. Sheraz Anjum, Advocate vice
Mr. Mazher Ali Khan, Advocate.

Mr. Mohd. Israr, Advocate.
Mr. A. K. Sharma, Advocate.
Mr. Gagan Kohli, Advocate.
Mr. Imran Ahmed Rather, Advocate.
Mr. Amullaya Gupta, Advocate vice
Mr. Ashish Sharma, Advocate.

V/s

State of J&K & Ors. .....Respondent(s)

Through:- Mr. Raman Sharma, Sr. Advocate with
Ms. Saliqa Sheikh, Advocate &
Mr. Kartikay Sharma, Advocate.
Ms. Rozina Afzal, Advocate.

CORAM:HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. The afore-titled writ petitions, except SWP Nos. 2138/2018 and 195/2019, involving common questions of fact and law, are proposed to be taken up together for decision. The writ petitioners, except those in the aforesaid two writ petitions, have been engaged as Gram Rozgar Sevaks (GRS)/Supporting Staff under the MGNREGA Scheme on different dates. The petitioners in SWP Nos. 2138/2018 and 195/2019 have been engaged as supporting staff under the same scheme on outsourcing basis. These two cases will be taken up separately for determination.

2. In as many as 37 writ petitions out of the afore-titled writ petitions, challenge has been thrown to Govt. Order No. 203

RD & PR of 2018 dated 09.08.2018, issued by the Secretary to the Government, Department of Rural Development and Panchayati Raj, whereby all engagements made under the MGNREGA Scheme in contravention of the rules/guidelines/norms in vogue and without following due procedure have been directed to be discontinued with immediate effect. The Deputy Commissioners have been asked to submit an action taken report in terms of the said Government order. In the remaining writ petitions, the writ petitioners have challenged fresh advertisement notices issued for engagement of GRS/Supporting Staff and they have also sought their continuance as GRS/Supporting Staff. The writ petitioners have further sought regularization of their services and a direction that their services should not be discontinued.

3. It is the contention of the writ petitioners that they have been working as GRS/Supporting Staff under the MGNREGA Scheme for the past several decades and they have been performing their duties to the entire satisfaction of the respondent-department, and by now, most of them have become overage. It is being contended that prior to the issuance of Circular No. RD-NREGA of 2010 dated

14.12.2010, whereby guidelines regarding the procedure for selection of Supporting Staff under the MGNREGA Scheme were issued by the respondents, there were no guidelines in vogue. Therefore, even if the engagements of some of the writ petitioners may not be in accordance with the procedure prescribed under the circular dated 14.12.2010 (supra), still then, such engagements cannot be termed de hors the procedure.

4. It is the further contention of the writ petitioners that it is not legally permissible for the respondents to disengage the writ petitioners, who are working on contractual basis, and replace them with a similar arrangement. Thus, the fresh advertisement notices issued by the respondents in connection with engagement of GRS/Supporting Staff under the MGNREGA Scheme on contractual basis are liable to be quashed. It is also the contention of the writ petitioners that the respondents cannot disengage their services on the basis of an omnibus order issued in the form of the impugned Government Order dated 09.08.2018, without following the principles of natural justice and without giving the writ petitioners an opportunity to show before the respondents that their engagements are not de-hors the procedure. It has

been contended that even the orders of disengagement issued pursuant to Government Order dated 09.08.2018 are not sustainable in law, as no opportunity of hearing has been given to the writ petitioners.

5. Another contention that has been raised by some of the writ petitioners is that merely because some of them were engaged on the recommendations of the Minister, MLAs or any other authority does not make their engagements de hors the procedure. It has been contended that, at the relevant time when these engagements were made, the proper procedure for selection was followed by the respondents and merely because some authority had made recommendations in their favour, their engagement is not rendered illegal.

6. The stand of the official respondents in all these writ petitions is that the engagements of the petitioners as GRS/Supporting Staff under the MGNREGA Scheme are patently illegal, as no transparent procedure was followed while making their engagements. Therefore, they have no right to continue in service. It has been contended that, in the cases of some of the writ petitioners, the orders of engagement issued in their favour, which have been placed on record, clearly reflect that they have been engaged on the

basis of the recommendations of one authority or the other without following any procedure for their engagement. It has been contended that even prior to the issuance of the guidelines for engagement of GRS/Supporting Staff under the MGNREGA Scheme, in terms of Circular dated 14.12.2010 (supra), the engagements of Supporting Staff under the said scheme had to be made through a transparent system, which, in the instant cases, has not been followed, thereby rendering the engagements of the petitioners illegal. According to the official respondents, any engagement/appointment made de-hors the prescribed procedure or without following any transparent process is void ab initio and, therefore, the writ petitioners are not even entitled to right of hearing before their services are discontinued.

7. I have heard learned counsel appearing for the parties and I have gone through the pleadings and the record.

8. From the rival contentions of the parties, broadly the following issues arise for determination by this Court:-

(i) Whether prior to the issuance of guidelines by the Government in terms of Circular No. 15-RD-NREGA of 2010 dated 14.12.2010, it was open to the official

respondents to make engagements of GRS/Supporting Staff under the MGNREGA Scheme without following due procedure?

(ii) Whether it is legally permissible for the official respondents to replace the existing contractual engagees with another set of contractual engagees in the facts and circumstances of the present case?

(iii) Whether impugned Govt. Order No. 203 RD&PR of 2018 dated 09.08.2018 is sustainable in law?

(iv) Whether it is legally permissible for the official respondents to disengage the services of the writ petitioners and, if so, what procedure is required to be followed while taking such action?

Issue No.(i): Whether prior to issuance of guidelines by the Government in terms of circular No. 15 RD-NREGA of 2010 dated 14.12.2010 it was open to the official respondents to make engagement of GRS/Supporting Staff under the MGNREGA Scheme without following due procedure.

9. As has already been noted, the procedure and guidelines for engagement of GRS/Supporting Staff under the MGNREGA Scheme were prescribed for the first time vide Circular dated 14.12.2010 (supra). The scheme in the erstwhile State of J&K was implemented in the year 2007. Admittedly, from the year 2007 up to the year 2010, no guidelines were

prescribed regarding the procedure for engagement of GRS/Supporting Staff under the MGNREGA Scheme. It is the contention of the writ petitioners that, in the absence of any guidelines, it was open to the official respondents to choose any suitable candidate for engagement as GRS/Supporting Staff under the MGNREGA Scheme. The contention of the official respondents, on the other hand, is that even in the absence of any prescribed procedure, they were under an obligation to adopt a transparent procedure for engaging the staff.

10. The argument advanced by the writ petitioners in the above context is absolutely fallacious. Merely because no procedure was prescribed for engagement of GRS/Supporting Staff under the MGNREGA Scheme prior to the year 2010, it was not open to the authorities to adopt the policy of pick and choose and confer the benefit of engagement on any person of their choice. The Supreme Court has, way back in the year 1979, in the case of **Ramana Dayaram Shetty Vs. International Airport Authority of India and others, (1979) 3 SC 489**, made it clear that every action of the executive government must be informed by reason and should be free from arbitrariness. It has been held that the

very essence of the rule of law is to curb arbitrariness in the exercise of power. It would be apt to quote the following observations of the Supreme Court made in the said judgment:-

> *"....It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norms which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including award of jobs, contracts, quotas, licences etc., must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory."*

11. Again, the Supreme Court, in the case of **State of Orissa and another Vs. Mamata Mohanty, (2011) 3 SCC 436**, while holding that no person, even on a temporary basis, can be appointed without inviting applications from all eligible candidates, observed as under:-

> *"19. Therefore, it is a settled legal proposition that no person can be appointed even on a temporary or ad hoc basis without inviting applications from all eligible candidates. If any appointment is made by merely inviting names from the employment*

> *exchange or putting a note on the noticeboard, etc. that will not meet the requirement of **Articles 14** and **16** of the Constitution. Such a course violates the mandates of **Articles 14** and **16** of the Constitution of India as it deprives the candidates who are eligible for the post, from being considered. A person employed in violation of these provisions is not entitled to any relief including salary. For a valid and legal appointment mandatory compliance with the said constitutional requirement is to be fulfilled. The equality clause enshrined in **Article 16** requires that every such appointment be made by an open advertisement as to enable all eligible persons to compete on merit."*

12. From the foregoing analysis of the legal position, it becomes clear that even for temporary or contractual appointments to be made by the Government or its authorities, it is incumbent upon them to invite applications from eligible candidates and adopt a transparent method. Thus, even in the absence of any prescribed procedure prior to the issuance of Circular dated 14.12.2010 (supra), it was obligatory upon the official respondents to adopt some sort of transparent procedure before making engagements of GRS/Supporting Staff under the MGNREGA Scheme. They could not do so on a pick-and-choose basis, as the same would be violative of Articles 14 and 16 of the Constitution of India and, hence, non-est in the eyes of law.

13. Issue No.(i) is answered in the aforesaid terms.

<u>Issue No.(ii):</u> Whether it is legally permissible for the official respondents to replace the existing contractual engagees with another set of contractual engagees in the facts and circumstances of the present case?

14. There can be no quarrel with the proposition of law that one set of contractual engagees cannot be replaced with another set of contractual engagees. The law in this regard has been laid down by the Supreme Court in the case of **Rattan Lal and others Vs. State of Haryana and others, (1985) 4 SCC 43**. It has been held in the said case that the policy of ad hocism for a fairly long period breaches Articles 14 and 16 of the Constitution of India and that one set of ad-hoc employees cannot be replaced by another set of similar employees. This principle of law has been consistently followed by the Supreme Court from time to time.

15. The question, however, that arises for determination in these writ petitions is whether, even in a case where the initial contractual engagements are de hors any transparent procedure, the same can be continued by applying the aforesaid principles of law. It is settled law that an engagement/appointment made in violation of the principles enshrined under Articles 14 and 16 of the Constitution is void ab initio, meaning thereby that such engagements are non-est

in the eyes of law. Therefore, in a case where contractual engagements have been made de-hors any transparent procedure or contrary to prescribed procedure, the said engagements cannot be continued by applying the principle that one contractual engagee cannot be replaced by another contractual engagee. Applying this principle in cases of illegal and backdoor appointments would amount to perpetuating illegality, which is impermissible in law. Thus, if it is found that the engagements of the writ petitioners were contrary to the procedure prescribed under Circular dated 14.12.2010 (supra) or de-hors any procedure consistent with Articles 14 and 16 of the Constitution of India, they cannot take shelter under the principle that one contractual engagee cannot be replaced by another contractual engagee.

16. Learned counsel appearing for the writ petitioners have, by placing reliance upon the judgment of this Court in the case of **Yasir Arafat and others Vs. State of J&K and others**, [WP No. 2672/2012, decided on 14.12.2017], contended that, in similar set of facts, this Court had come to the rescue of the petitioners therein and quashed their disengagement by holding that one temporary employee cannot be substituted by another temporary employee.

17. A careful perusal of the judgment passed by a Coordinate Bench of this Court in **Yasir Arafat and others** (supra) would reveal that the Court has not considered the issue as to what would be the legal position if the initial engagement of a contractual appointee, whose engagement is sought to be replaced, is de hors the procedure recognized under Articles 14 and 16 of the Constitution of India. The said issue was not adverted to by the learned Single Judge while passing the judgment dated 14.12.2017 in the aforesaid case.

18. The basic principle that one set of temporary engagees cannot be substituted by another set of temporary engagees, as laid down by the Supreme Court in the case of **Rattan Lal's** (supra), is dependent upon the condition that the initial engagement must have been made after following the proper procedure. A backdoor engagement cannot be perpetuated by prohibiting the State authorities from advertising the posts in accordance with the prescribed procedure.

19. Issue No.(ii) is answered accordingly.

<u>Issue No.(iii):</u> Whether the impugned Govt. order No. 203 RD &PR of 2018 dated 09.08.2018 is sustainable in law?

20. As already stated, a number of writ petitions have been filed by the writ petitioners challenging the impugned order

dated 09.08.2018 (supra), whereby a general direction has been issued for the disengagement of those contractual engagees whose engagements have been made in contravention of the rules/norms/guidelines and without following due procedure of law. Even prior to the issuance of impugned order dated 09.08.2018, a communication was addressed by the Under Secretary to the Government, Rural Development Department, on 23.04.2013 to the Director, Rural Development Department, for holding an inquiry into the illegal engagements and stopping the salaries of illegal appointees. The said communication is also the subject matter of challenge in a couple of writ petitions.

21. The first question that falls for determination is whether an order in the nature of order dated 09.08.2018 (supra) or in the nature of communication dated 23.04.2013(supra) could have been issued by the respondents. The objection raised by the writ petitioners to the issuance of the impugned order and the communication is that omnibus orders/directions could not have been issued.

22. So far as the jurisdiction and authority of the respondents to issue impugned order dated 09.08.2018 (supra) or to issue communication dated 23.04.2013 (supra)

is concerned, the same cannot be questioned. By virtue of the impugned order and the communication (supra), the authorities of the official respondents are only seeking to tackle the problem of backdoor appointments. A person who has been appointed/engaged de-hors the prescribed procedure or in violation of any transparent procedure cannot claim a vested right to continue in service. As already discussed hereinbefore, an engagement made de-hors the rules or contrary to a transparent procedure is non-est in the eyes of law. Such an engagee does not have any right to continue in service. Therefore, neither the intention nor the jurisdiction of the respondents to issue impugned order dated 09.08.2018 or impugned communication dated 23.04.2013 can be questioned.

23. However, the issue that arises for determination is whether, on the basis of these general directions, the services of the writ petitioners could have been discontinued and their salaries stopped. In this regard, the writ petitioners have contended that their services could not have been discontinued, nor their salaries could have been withheld, without following the principles of natural justice and

without holding an inquiry into the nature of their engagements.

24. *Per contra*, learned AAG has argued that, because the engagements of the petitioners were made in violation of the procedure prescribed under Circular dated 14.12.2010 or contrary to any transparent procedure, their engagements are void ab initio. Therefore, no notice is required to be issued to the petitioners. It is being contended that no inquiry is required to be held before disengaging services of backdoor engagees. To support this contention, learned AAG has placed reliance upon judgment of a Coordinate Bench of this Court in the case of **Shameem Ahmad Shah and others Vs. State of J&K and others**, [SWP No. 667/2017, decided on 09.05.2024].

25. There can be no quarrel with the legal proposition that an engagement/appointment made without following the mandate of Articles 14 and 16 of the Constitution of India is illegal and non est in the eyes of law and, therefore, the beneficiaries of such appointment/engagement are not entitled to an opportunity of hearing before their disengagement. However, the question that arises for determination is whether, in the present petitions, there is any

admission on the part of any of the writ petitioners that their engagements are illegal or backdoor. If there is an admission on the part of the writ petitioners, or some of them, on this aspect of the matter, then certainly they are not entitled to right of hearing before their disengagement.

26. Learned AAG has referred to the engagement orders issued in favour of some of the writ petitioners, which they have placed on record along with their writ petitions, wherein it has been mentioned that their engagements have been made on the recommendations of Ministers/MLAs/high government functionaries. On this basis, it is being contended that, at least in their cases, there is no requirement to hold any inquiry or to give them an opportunity of hearing.

27. In the above context, if we have a look at the pleadings and the engagement orders of the writ petitioners, it is revealed that even though, in some cases, the engagement orders do refer to recommendations made by Ministers/MLAs/high Government functionaries, yet the writ petitioners have specifically pleaded that they had applied pursuant to an advertisement notice issued by the engaging authorities. Therefore, merely because some Ministers/MLAs/ Government functionaries may have made

recommendations in their favour, their engagements do not become illegal if they had been engaged after inviting applications from eligible candidates. There are also pleadings of the writ petitioners in some cases wherein they have specifically pleaded that a selection committee was constituted and their engagements were made on the basis of proper selection even though the guidelines issued vide Circular dated 14.12.2010 were not in place.

28. In the aforesaid circumstances, the issue as to whether or not the engagements of the writ petitioners are illegal, or in contravention of the rules/norms/guidelines, becomes a matter that requires to be examined in individual cases. The respondents, therefore, are not legally justified in dispensing with the services of the petitioners on the basis of the general Government Order dated 09.08.2018, nor they are justified in withholding their salaries on the basis of the general communication dated 23.04.2013. Each case has to be examined and analyzed by the respondents before taking a decision with regard to the withholding of salary or disengagement of the writ petitioners. They cannot be disengaged, nor their salaries can be withheld, by way of a

general order on the ground that their engagements are in contravention of the rules/norms/guidelines.

29. Learned AAG, while relying upon the judgment of the Supreme Court in the case of **State of West Bengal and others Vs. Baishakhi Bhattacharya (Chatterjee) and others, 2025 SCC Online SC 2330** has contended that, in the said case, the Supreme Court upheld the cancellation of the entire selection process relating to teachers and other staff initiated by the West Bengal Central School Service Commission. It has been contended that, in the said judgment, even the direction regarding refund of salary by tainted candidates was upheld, as their appointments were found to be the result of fraud.

30. The principle of law laid down by the Supreme Court in the aforesaid judgment, being a binding precedent, has to be followed in all cases. However, if we have a look at the judgment passed by the Supreme Court in the said case, the directions issued therein were issued on the basis of the findings of the inquiry committee and the investigation conducted by the CBI. It was only on the strength of these findings that the Supreme Court upheld the directions of the High Court to the aforesaid extent.

31. In the present case, it is not even the contention of the official respondents that they have held any inquiry into the nature of engagement of the writ petitioners. No report of any enquiry relating to nature of engagement of the writ petitioners has been placed on record, nor there is any such report available in the record produced by the official respondents. In fact, the official respondents have not undertaken any exercise to ascertain the actual nature of the engagements of the writ petitioners. Without undertaking an exercise to ascertain the nature of the engagements of the writ petitioners in which they are required to be associated, their services cannot be dispensed with by way of a general Government Order. The official respondents were obliged either to hold an in-house inquiry into the nature of the engagements of the writ petitioners after allowing them to present their version before the enquiry committee or to issue individual notices to the writ petitioners, calling upon them to show cause as to why their engagements should not be terminated on the ground that the same are illegal. It is true that an illegally appointed employee is not entitled to the benefit of the principles of natural justice; however, to arrive at the conclusion that a particular engagement is illegal either

an enquiry has to be held or an opportunity of hearing has to be given to the concerned engagee, unless the illegality of the appointment is an admitted fact.

32. The writ petitioners have contended that their engagements cannot be terminated without holding a regular departmental inquiry. Reliance in this regard has been placed upon the judgment of a Coordinate Bench of this Court in the case titled **Feroz Ahmed Sheikh and others Vs. UT of J&K and another, [**WP(C) No. 2260/2022, decided on 16.12.2023].

33. So far as the status of a contractual appointee is concerned, it cannot be equated with that of an employee holding a civil post. A contractual engagee is not entitled to the protection available to a regularly appointed employee as Article 311 of the Constitution of India is not applicable to a contractual appointee. The service conditions of a contractual appointee are governed by the contract of appointment and not by the Civil Services Regulations or the relevant provisions of the Constitution. Before disengaging a contractual appointee, he can, at best, claim adherence to the principles of natural justice or to a fair procedure. A

contractual engagee cannot insist upon a regular departmental inquiry before his services are disengaged.

34. In any case, we are dealing with a situation where the official respondents claim that the very engagements of the writ petitioners are illegal and backdoor, being de-hors the rules or contrary to fair procedure. If the contention of the official respondents is found to be correct, the engagements of writ petitioners cannot be protected. However, before disengaging them in view of the dispute raised by the writ petitioners on the factual aspects of the case, either an in-house inquiry has to be conducted by the official respondents to ascertain the nature of the engagements of the petitioners, in which they are permitted to participate or individual notices have to be issued to the writ petitioners calling upon them to present the material in support of their contentions.

35. The issue is answered accordingly.

36. In writ petitions bearing SWP Nos. 2138/2018 and 195/2019, the writ petitioners have been engaged by the official respondents on outsourcing basis. This is clear from the engagement orders issued in favour of the writ petitioners, copies whereof, have been placed on record. Since the writ petitioners have not been appointed pursuant to

any contract between them and the official respondents, as their engagement has been made through a contractor, who has not even been made party to the writ petitions, they cannot claim any relief against the official respondents. There is no privity of contract between the writ petitioners and the official respondents. Thus, the writ petitioners have neither locus standi to challenge the Government Order dated 09.08.2018 nor they can challenge the action of the official respondents in putting the posts of GRS/Supporting Staff to fresh advertisement. Both these writ petitions are, therefore, liable to be dismissed.

37. In view of the foregoing discussion, the following directions are issued:-

(1) Writ petitions bearing SWP No. 2138/2018 and SWP No.195/2019 are **dismissed.**

(2) Rest of the writ petitions are disposed of by holding as under:-

(i) Prior to the issuance of circular dated 14.12.2010, the official respondents were obliged to follow a fair and transparent procedure for engagement of GRS/Supporting staff under MGNREGA Scheme;

(ii) The legality and validity of the impugned Government Order No. 203 RD & PR of 2018

dated 09.08.2018 and the impugned communication dated 23.04.2013 is upheld.

(iii) Before taking any action against the writ petitioners on the basis of impugned Government Order No. 203 RD & PR of 2018 dated 09.08.2018 and impugned communication dated 23.04.2013, the official respondents shall either hold an in-house inquiry to determine the nature of engagement of the writ petitioners, in which the writ petitioners shall be permitted to make representations and produce documents in support of their claims, or, in the alternative, issue individual notices to the writ petitioners calling upon them to show cause as to why their engagements should not be terminated on the ground of illegality.

(iv) In the case of those writ petitioners whose initial engagements are found to have been made in accordance with a fair procedure or the prescribed norms, they shall be allowed to continue in service, and their legitimately earned salaries shall also be released in their favour. Besides this, any fresh advertisement notice issued for filling up the posts held by such writ petitioners shall stand quashed.

(v) In the cases of those writ petitioners whose engagements are found to be illegal or de hors the prescribed norms or fair procedure, the official respondents shall be at liberty to disengage them from service, and such writ petitioners shall not be

entitled to any wages. However, any wages already paid to such petitioners pursuant to the directions of this Court shall not be recovered by the official respondents.

38. The petitions stand **disposed** of along with connected CM(s), if any.

CPSW No. 547/2018, CPSW No. 719/2018
CPSW No. 723/2018, CPSW No. 724/2018
CCP(S) No. 331/2019,CCP(S) No.627/2019,
CCP(S) No. 96/2020,CCP(S) No. 210/2020,
CCP(S) No. 218/2021, CCP(S) No. 219/2021
CCP(S) No.220/2021, CCP(S) No. 81/2022,
CCP(S) No. 247/2022.

39. Since the main writ petitions stand disposed of, as such, the contempt petitions arising out of the interim orders passed in the said writ petitions do not survive and are accordingly closed.

40. The contempt petitions stand **disposed** of.

(Sanjay Dhar)
Judge

Jammu
22.10.2026
Madan Verma-Secy

Whether order is speaking? Yes
Whether order is reportable? Yes