



SUNNY TIMES DAILY NEWS PORTAL

www.sunnytimes.in

Daily News and Views Online TV & Cyber media. "Blunt and Sharp Daily News Portal" Thursday 10-08-2017 Portal Website with online news daily at: sunnytimes.in Mobile: 9945116476

M.S.Yatnatti : Editor and Video Journalist: "Blunt and Sharp Daily News Portal" : Swarnamba .R.L Freelance Video Journalist and Reporter

"GOVT BBMP" PLAYING DIRTY GAME ON "POURAKARMIKAS" NO REGULARIZATION ONLY FEW RECRUITMENT" NO ABOLITION OF "CONTRACT POURAKARMIKA"



By : M.S.Yatnatti Editor and Video Journalist Bengaluru: Pourakarmikas were demanding total abolition of contract system in BBMP and total regularization of Pourakarmikas. Instead of abolishing the contract system government itself is promoting contract labour. One will be contract employee and other will be permanent employee and discrimination among employee and both are paid by BBMP. As per the orders issued by Government of Karnataka on 07-08-2017 BBMP will recruit 5486 pourakarmikas and others will be contract pourakarmikas will be paid by BBMP directly. Permanent pourakarmikas will have different salaries and contract pourakarmikas will have different salary. No equal pay to equal work. Earlier contractors were exploiting and now government will exploit them. Pourakarmikas were demanding that all should be made BBMP employees. Earlier BBMP had announced recruitment of 4000 pourakarmikas and stopped recruitment process stating that according to court order it will regularize the pourakarmikas but without the knowledge of pourakarmikas. Bangalore Minister and chief Minister it challenged the order on flimsy and technical ground and got stay of the order on it and now neither recruitment nor regularization and nor abolition of contract system as promised to high court of Karnataka. Why BBMP is playing the dirty game with the lives of pourakarmikas is big question being asked by everyone in Karnataka who are interested with welfare of SC ST development. In recent order by HKHC in WP Nos 201021-022/2015 (s-res) dated 5-06-2015 to all commissioners of BBMP, city corporations of Tumkur Shivamogga, Vijayapura Mngalore Belgaum Bellary Davangere Huballi-Dharwad Kalburgi and Mysuru are directed to take appropriate and immediate steps to regularize the services of daily wade sweepers scavengers or purakarmikas either working on out sorce or through contractors wthin six months from date of order. The Government could have implemented this order and resolved the issues with pourakarmikas instead it challenged it on a technical ground and got injustice to all pourakarmikas. Reportedly few officers have vested interest and in connivance with few contractors are spell bound to pourakarmikas by not allowing the BBMP to regularize the pourakarmikas despite legal remedies were available and made BBMP to back stab by challenging the beneficial court order HKHC in WP Nos 201021-022/2015 (s-res) dated 5-06-2015 stopped the recruitment process or regularization process by abolishing contract system. It all dirty game played by few people to inflict injustice on SC ST Persons. This is nothing but atrocity on SC ST persons according to newly amended POA Act 2015.

Mr. Chiranjeevi N.V the Secretary, said in the discussion on abolishing contract labour or temporary employment for pourakarmikas had begun after the civic body in Haliyal in Uttar Kannada district regularised the services of its pourakarmikas following a High Court order. "We should remove the word temporary from the labour force's lexicon. The pourakarmikas should be taken as regular employees from the time they join work," Mr. Chiranjeevi N.V the Secretary said. He said the exploitation of pourakarmikas at the hands of the contractors was so rampant that immediate measures should be taken to end the contract system. The BBMP had invited applications from candidates for 4,000 posts of Pourakarmikas when 18,000 of them have already been working on contract basis and about 35,000 were working in State. "Few of the legal experts state that Umadevi SC order is not applicable to pourakarmikas as they have completed more than 240 days of their service and in some cases they have completed more than 10 years of service in contract labour. The Supreme Court ruling says that daily wagers who have worked for at least 240 days in a calendar year are entitled to be regularised. An earlier judgment by the Constitution Bench said that daily wage employees had no right to seek regularization. Justice A.R. Lakshmanan and Justice Loleshwar Singh Panta said that daily wagers could not claim regularisation if they had not worked for at least 240 days in a calendar year.

The High Court earlier had directed the State government to consider within six months the proposal of cancelling the contracts of pourakarmikas and appointing them as permanent employees of city municipal corporations and urban local bodies. A Division Bench of Justices K L Manjunath and Ravi Malimath passed the direction while hearing a PIL filed by former Mysore mayor Narayana, who is also president of the Karnataka State City Corporation and Town Municipalities Pourakarmikas Mahasangha. He had requested the court to direct the corporations and municipalities to pay wages to contracted pourakarmikas on par with the permanent staff. During the hearing, Additional Advocate General Shivanna submitted that the proposal to appoint contract civic workers employed with city corporations, city municipalities and town municipalities as permanent employees is pending before the State government and added that it will be done within six months. The Bench told the government to complete the process in the prescribed time and disposed of the petition. The petition contended that though the contract workers are doing the same amount of work, the corporations are paying them lesser than those employed on a permanent basis, which is a violation of the right to equality. It is directed by HKHC in WP Nos 201021-022/2015 (s-res) dated 5-06-2015 to all commissioners of BBMP, city corporations of Tumkur Shivamogga, Vijayapura Mngalore Belgaum Bellary DFvangere Huballi-Dharwad Kalburgi and Mysuru are directed to take appropriate and immediate steps to regularize the services of daily wade sweepers scavengers or purakarmikas either working on out sorce or through contractors wthin six months from date of order.

Chiranjeevi N.V the Secretary BBMP Poura Karmikara makkala kshemabhivruddhi Sangaha" has demanded state Government to withdraw the notification declaring BBMP as state level organisation in Hyderabad Karnataka reservations in recruitment Act-2013 as BBMP is not a state level organization as per the 371j constitution amendment and Hyderabad Karnataka reservations in recruitment Act-2013 does not apply to it as per 371j constitution amendment. The reservation of 1200 persons for recruitment of 4000 pourakarmikas for Hyderabad Karnataka in BBMP is illegal as BBMP is not a state level organization as specified in the Hyderabad Karnataka reservations in recruitment Act-2013 as per 371j constitution amendment. The constitution amendment does not have provision to declare Local corporation belonging to Bangalore BBMP to be declared as state level organization. Wherefore the notification need to be withdrawn immediately and all the post should go to BBMP areas in Bangalore as far as recruitment to 4000 Pourakarmikas is concerned.

Chiranjeevi N.V the Secretary BBMP Poura Karmikara makkala kshemabhivruddhi Sangaha" has demanded state Government to abolish Contract pourakarmika and regularize them as BBMP pourakarmikas forth with as these pourakarmikas, are working since several years under contract laborers under filthy conditions. Landmark Verdict on Regularisation, Same wages and Service Conditions for Same and Similar kind of Work, All Components of Wages on par with Regular Workers For Contract Sanitation Workers in Karnataka Municipalities and Corporations! Request is made to Abolish Contract outsourcing of pourakarmika and regularize them as BBMP pourakarmikas employees forth with as these pourakarmikas, are working since several years as contract laborers under filthy conditions. The BBMP alone has 21,000 pourakarmikas, including 17,000 on contract. More than 90 per cent of pourakarmikas are women. "As per sections of the Contract Regularisation and Abolition Rules, 1971, there should be one pay for one work i.e. equal pay for equal work. These rules have been flouted for so long by the government," the government should address the lack of benefits and facilities to the Contract pourakarmika. Instead of outsourcing and paying more money to garbage contractors instead Contract pourakarmika need to be absorbed in BBMP. The State government has accepted the proposal of the Karnataka State Safai Karamchari Commission to abolish the contract system and outsourcing of pourakarmikas to private agencies but yet no decision taken by State government despite state giving undertaking to division bench in Honble Karnataka high court that it will do it in six months in WP No 6058/2006 (L-RES/PIL) order dated 12-03-2014. A writ petition [WP No. 6058 / 2006 (L-PIL)] was filed in 2006 by Pourakarmikara Maha Sangha demanding justice for more than a lakh Pourakarmikas (Sanitation Workers) in Karnataka. The writ petition sought abolition of contract system, same wages and same service conditions for all contract Pourakarmikas engaged in same and similar kind of work as per Rule 25 (2) (v) (a) of Contract Labour Regulation and Abolition Rules, 1971, and providing all components of wages, benefits and other facilities to contract Pourakarmikas on par with regular Pourakarmikas in all City Corporations, City Municipalities and Town municipalities all over the state of Karnataka.

The contract labourers have become the employees of the principal employer in course of time and the engagement and employment of labourers through a contractor or outsourcing through a contractor is a mere camouflage and a smokescreen, as it is fact that in contracts regular pourakarmikas also given to contractor, is a fact and established by the contract labourers on the basis of the requisite material and contract documents. In spite of being engaged in permanent and perennial nature of work, nature of employment of overwhelming majority of sanitation workers in all municipalities and corporations in Karnataka are under inhuman contract system. As on date, out of the total 18,709 sanitation workers only 3,178 are on the pay rolls of Bruhat Bengaluru Mahanagara Palike (BBMP) and the remaining are tied under the most exploitative contract system under 79 contractors. These workers clean all the 198 wards in Bangalore that are divided under eight zones. Regular Sanitation workers are being paid a monthly wage of around Rs. 14,000 while their counterparts under contract system are being paid a paltry sum of Rs. 5,054 a month despite enhancement by state Government.

It is an open secret that the outsourcing agencies seldom credited the Provident Fund and ESIC amounts in the workers' accounts. The recent Supreme Court ruling that daily wage workers who have worked for at least 240 days in a calendar year are entitled to be regularised has revived the hopes of many who work in the various departments in the State. Quoting an earlier constitution bench judgment on the issue, the bench comprising Justice A.R. Lakshmanan and Justice Loleshwar Singh Panta said that daily wagers could not claim regularisation if they had not worked for at least 240 days in a calendar year.

In citations in Supreme Court of India G.M., O.N.G.C., Shilchar vs O.N.G.C. Contractual Workers ... on 16 May, 2008 it is held that "It was contended by Mr. Dave that this Court in Uma Devi's case (supra) has clearly opined that the contract or casual labour could not claim regularization and he has in particular emphasized that in the light of the admitted position that at some stage, the workmen were indeed contract employees the ratio of the aforesaid was clearly applicable to the facts of the case. We, however, observe that the aforesaid decision was considered by another Bench of this Court in Pandey's case (supra) wherein it has been held that the ratio of any decision must be understood in the background of the facts of that case and that the case is only an authority for what it logically decides and what logically flows from it. In Pandey's case (supra) the question was as to whether casual employees working in the Electricity Board were entitled to regularization of their services. This is what the Division Bench had to say in paragraphs 16 and 17: "We are constrained to refer to the above decisions and principles contained therein because we find that often Uma Devi's case (supra) is being applied by Courts mechanically as if it were a Euclid's formula without seeing the facts of a particular case. As observed by this Court in Bhavnagar University's case (supra) and Bharat Petroleum Corporation Ltd.'s case (supra), a little difference in the precedential value of a decision. Hence, in our opinion, Uma Devi's case (supra) cannot be applied mechanically without seeing the facts of a particular case, as a little difference in facts can make Uma Devi's case (supra) inapplicable to the facts of that case.

Likewise in Steel Authority of India's case this is what the Court had to say: "An analysis of the cases, discussed above, shows that they fall in three classes: (i) where contract labour is engaged in or in connection with the work of an establishment and employment of contract labour is prohibited either because the industrial adjudication/court ordered abolition of contract labour or because the appropriate Government issued notification under Section 10(1) of the CLRA Act, no automatic absorption of the contract labour working in the establishment was ordered; (ii) where the contract was found to be a sham and nominal, rather a camouflage, in which case the contract labour working in the establishment of the principal employer were held, in fact and in reality, the employees of the principal employer himself. Indeed, such cases do not relate to abolition of contract labour but present instances wherein the Court pierced the veil and declared the correct position as a fact at the stage after employment of contract labour stood prohibited; (iii) where in discharge of a statutory obligation of maintaining a canteen in an establishment the principal employer availed the services of a contractor the courts have held that the contract labour would indeed be the employees of the principal employer."



In the present case the writ petitioners (respondents herein) only wish that they should not be discriminated against vis-à-vis the original employees of the Electricity Board since they have been taken over by the Electricity Board "in the same manner and position". Thus, the writ petitioners have to be deemed to have been appointed in the service of the Electricity Board from the date of their original appointments in the Society. Since they were all appointed in the society because 4.5.1990 they cannot be denied the benefit of the decision of the Electricity Board dated 28.11.1996 permitting regularization of the employees of the Electricity Board who were working from before 4.5.1990. To take a contrary view would violate [Article 14](#) of the Constitution. We have to read Uma Devi's case (supra) in conformity with [Article 14](#) of the Constitution, and we cannot read it in a manner which will make it in conflict with [Article 14](#). The Constitution is the supreme law of the land, and any judgment, not even of the Supreme Court, can violate the Constitution." We are therefore of the opinion that in the light of the aforesaid observations, Mr. Dave's argument that the workmen being on a contractual, were not entitled to any relief, cannot be accepted and the large number of judgments cited by Mr. Dave, on this aspect, cannot be applied to the facts of the case.

Objects of the Act: The object of the Act in terms of the preamble is to abolish contract labour wherever it is possible and regulation of contract labour where such abolition is not possible. Chapter 3 deals with registration of establishments employing contract labour. [Section 10](#) deals with prohibition of employment of contract labour. [Section 10](#) has undergone several judicial scrutiny in terms of the several case laws. Courts have considered the object of the Act. The Supreme Court has considered the object of the Act in and also in the subsequent judgment. In both these judgments, the Supreme Court has disapproved the system of contract labour holding it to be 'archaic' 'primitive' and of 'baneful nature'. These two judgments have been subsequently noticed by the Supreme Court in 1990 Supp SCC 668. The Supreme Court after referring to these judgments has chosen to hold in para 6 that the contract labour system which is nothing but an improved version of bonded labour, is sought to be abolished by the Act. [The Act](#) is an important place of social legislation for the welfare of labourers and it has to be liberally construed. The same is noticed in subsequent judgments as well. In fact in these cases itself the Government noticed the object of the Act in terms of the judgment and ruled that the underlying policy of the Act is to abolish contract labour, wherever possible and practicable, and where it cannot be abolished altogether, the policy of the Act is that the working conditions of the contract labour should be so regulated as to ensure payment of wages and provision of essential amenities. When the judgment of this court was challenged before the Supreme Court, the Supreme Court confirmed the same. Therefore what is clear to this Court is that the main object of the act is to abolish as to regulate contract labour in terms of the statute and in terms of intention of the legislature in the matter.

The history of urban local self-governing bodies (commonly called Municipalities) in Karnataka State dates back to more than a century. These local bodies are again classified into various categories like Corporations, Cities, Town Municipalities and Town Panchayats depending upon the population. The Municipal bodies are now governed by the provisions contained in Karnataka Municipalities Act, 1964 (for City Municipalities, Town Municipalities and Town Panchayats) and Corporation Act, 1976 (for Corporations).

The Government of Karnataka has reconstituted the municipalities according to the 74th Constitutional Amendment Act. The towns have now been classified based on the population and other criteria as Town Panchayat (Population 10,000 to 20,000), Town Municipal Councils (Population 20,000 to 50,000) City Municipal Councils (Population 50,000 to 3,00,000) and City Corporations (Population 3.0 lakhs and above). On this basis, at present there are 10 City Corporations, 41 City Municipal Councils, 68 Town Municipal Councils and 94 Town Panchayats in the state. Also for specified areas like industrial areas where municipal services are required to be provided, the government has created 5 Notified Area Committees (NAC). In order to discharge the above responsibilities, Municipalities have been vested with the powers to levy certain taxes and fees. Also, the State Government transfers a portion of its general revenues to the urban local bodies. The main sources of income of the municipalities are derived from (a) taxes on building and lands, (b) user charge for water supply (c) license fee for regulating the building construction activities and fee from other trade license. The municipalities can also raise loans from Central and State Governments and Financial Institutions to meet expenditure under capital heads of accounts. Government through Directorate of Municipal Administration supervises the functioning of the municipalities. Government directly supervises the functioning of the Corporations. The Directorate has the responsibility to supervise the function of the municipalities, work out suitable human resource policies, exercise disciplinary control over the staff of municipalities, monitor the tax collection of ULBs, lay down policies for transparency in expenditures, hear appeals against the decisions of municipalities, release the Government transfers to the ULBs, as well as implement schemes like SJSRY (for urban poverty alleviation), IDSMT, Nirmala Nagar. The Directorate also collects statistics from ULBs and helps in the preparation of municipal statistics. The Directorate also inspects municipalities, interacts with both elected representatives and the employees to find out both genuine and specific problems of urban administration and urban municipal services and work out the solutions for those problems.

ADVERTORIALS AND CONSULTANCY HELP LINE

You may have problems with Government Departments PWD, BDA, BMRDA, KIADB, TOWN PLANNING DEPARTMENTS AND Development Authorities BBMP, Taluka office, D.C. Office, Corporation, K.S.R.T.C., Commercial Tax Offices, K.E.B., Pension problems, Acquisitions of Land Problems, Khata, Bifurcation, Tax Revision. Banks Problems etc, which may be have been pending for months, and years in Government files etc. Everybody is facing Problems, Problems?

Kindly write to us, we analyze and convince our selves and if appropriate then we will take your problems, to concerned authorities, ministries, i.e., through our news paper property politics and try to help you. We also provide consultancy and Liaison service on case to case bases as per agreed terms and fees. Write your problems with Xerox copies,

M.S.Yatnatti, Editor and Video Journalist Consultant Mobile: 9945116476 E-Mail: msyatnatti@yahoo.com propertypolitics@gmail.com