



**IN THE HIGH COURT OF MADHYA PRADESH**  
**AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE G. S. AHLUWALIA**

**ON THE 8<sup>th</sup> OF APRIL, 2025**

**WRIT PETITION No. 3953 of 2009**

***CHANDRA SHEKHAR SHARMA***

*Versus*

***STATE OF M.P. AND OTHERS***

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**Appearance:**

*Shri MPS Raghuwanshi- Senior Advocate with Shri Manish Gurjar- Advocate for petitioner.*

*Shri G.K. Agrawal – Government Advocate for respondent/State.*

*Shri Shivendra Singh Raghuvansi- Advocate for respondent No.6.*

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**ORDER**

This petition, under Article 226 of Constitution of India, has been filed seeking following relief(s):

- (1) That, the impugned entire Selection proceedings of Panchayat Karmi of Gram Panchayat, Bharouli, Tehsil Seondha, District Datia may kindly be quashed.
- (2) That, the impugned orders dated 02.04.2008 and 03.04.2008 passed by Collector, Datia contained in Annexure P-1 and order dated 07.08.2009 passed by S.D.O., Seondha contained in Annexure P-10 may kindly be quashed/set-aside.



(3) That, the petitioner is meritorious candidate and the respondents' authorities may kindly be directed to appoint petitioner as Panchayat Karmi of Gram Panchayat Bharouli, Seondha, District Datia (MP.)

(4) Any other suitable order/direction in favour of petitioner may kindly be passed in the interest of justice. Cost may kindly be awarded.

2. It is submitted by counsel for petitioner that on 20.08.2007, an advertisement was issued for appointment to the post of Panchayat Karmi in Gram Panchayat Bharouli, Tahsil Seondha, District Datia (M.P.). Although Clause 4.2 of Panchayat Karmi Scheme, 1995, provided that atleast 15 days' time must be given for filling up the application but only 08 days' time was given. Petitioner and other persons, applied for the post of Panchayat Karmi. Thereafter no proceedings for appointment of Panchayat Karmi were undertaken. Therefore, petitioner submitted an application on 28.12.2007 to Deputy Director, Panchayat Department as well as application dated 22.02.2008 to CEO, Janpad Panchayat Seondha, thereby requesting to appoint petitioner on the post of Panchayat Karmi but no action was taken. Thereafter, the case of petitioner as per the pleadings mentioned in the petition was that without issuing notification/advertisement respondent No.6 was appointed as Panchayat Karmi and was conferred with the powers of Secretary of said Panchayat. Petitioner submitted an application to CEO Jila Panchayat and requested to adjudicate the matter. Thereafter, the up-Sarpanch and other Panchas also submitted an application dated 22.04.2008 claiming that appointment of respondent No.6 is illegal. Petitioner also submitted an application to Collector, Datia and prayed for decision in the matter. However, by order dated 07.08.2009, the SDO, Seondha, District Datia, rejected the



application on the ground of maintainability. Thus, the case of petitioner was that although an advertisement was issued on 20.08.2007 for filling up of the post of Panchayat Karmi, Gram Panchayat Bharouli, Tahsil Seondha, District Datia but no action was taken and thereafter without issuing any notification/advertisement respondent No.6 was appointed as Panchayat Karmi.

3. Respondent No.4 filed his return on 30.07.2010 and pleaded that since the post of Panchayat Karmi, Gram Panchayat Bharouli, Tahsil Seondha, District Datia was lying vacant, therefore, Collector, Datia issued an order for filling up of the post of Panchayat Karmi. When in spite of that, Gram Panchayat failed to fill up the post of Panchayat Karmi, then Collector directed the Janpad Panchayat Seondha for making appointment as per the provisions of Section 86(2) of Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993. In pursuance of the same, an advertisement was issued which was duly published in the area on 24.03.2008. In response to the said advertisement, total seven applications were received and since respondent No.6 was meritorious amongst all applicants, therefore, he was appointed on the post of Panchayat Karmi and the financial powers were also conferred to him. It is submitted that as per the Policy dated 25.01.2006, seven days' time was required to be granted for filling up the application and in this case also seven days' time was granted to fill up the application forms. It is further submitted that advertisement was duly circulated in the area by affixture on the board of Janpad Panchayat, Seondha, display board of Tahsil office, Seondha and by beat of drum in the Gram Panchayat as well as affixture at Panchayat Bhawan. Panchnamas in respect of affixture on different places were also filed



as Annexure R-4/3. So far as relationship of respondent No.6 with the Sarpanch is concerned, it is submitted that as per the provisions of Section 69 of Act, 1993, son of sister does not fall within the prohibited relationship.

4. Respondent No.6 also filed return on 14.07.2010 and took the same stand.

5. Respondents No.1 to 4 also filed their return on 11.02.2011 and submitted that after applications were invited, merit list was prepared and respondent No.6 was found to be meritorious candidate and accordingly he was appointed as Panchayat Karmi, Gram Panchayat Bharouli, Tahsil Seondha, District Datia and vide order dated 02.04.2008, he was declared as Panchayat Secretary of Gram Panchayat Bharouli. It is the case of respondents No.1 to 4 that since Gram Panchayat had failed to appoint Panchayat Karmi, therefore, Collector exercised its power under Section 86 of Act, 1993 and issued instructions for appointment of Panchayat Karmi in Gram Panchayat Bharouli. It is further submitted that since petitioner did not submit his application in response to the advertisement dated 24.03.2008, there is no question of consideration of case of petitioner.

6. Petitioner filed his rejoinder on 26.11.2015 and thereafter additional rejoinder on 11.04.2016 to the effect that advertisement dated 24.03.2008 was not given widespread publicity and as per policy of the year 1995, 15 days' time should have been given to fill up the application forms whereas in the advertisement in question only seven days' time was granted. Thereafter, on 27.02.2017, additional return was filed by respondent No.6 reiterating the facts which were taken by him in the return.

7. Challenging the order of appointment of respondent No.6, it is submitted by counsel for petitioner that as per the policy of the year 1995, 15 clear days'



time should have been granted to fill up the application forms but that was not done. The advertisement/notification was not given widespread publicity, therefore, petitioner could not file his application,. Furthermore, in the light of the judgment of Single Bench of this Court in the case of **Gandharv Singh Vs. The State of M.P. and Others decided on 09.04.2009 in WP. No.3250/2008(s), Gwalior Bench**, the appointing authority should also have taken into consideration the application forms which were submitted on the earlier occasion.

8. *Per contra*, petition is vehemently opposed by counsel for respondent/State as well as respondent No.6. By relying upon the judgment passed by the Division Bench of this Court in the case of **Ravindra Singh Vs. State of M.P. & Others decided on 27.11.2014 in WA. No.198/2014**, it is submitted that when the first recruitment process was cancelled, then in the subsequent advertisement it was not necessary for respondents to consider the applications which were made by candidates in response to the first advertisement. It is further submitted that second advertisement was governed by the Scheme of 2006 which provides for grant of seven days' time and accordingly, seven days' time was granted and the advertisement/notification was given widespread publicity as also claimed by respondent No.4 in his return.

9. Heard learned counsel for parties.

10. Single Bench of this Court in the case of **Gandharv Singh (supra)**, has held that where the Gram Panchayat could not complete the recruitment to the post of Panchayat Karmi, then the Collector has an authority to issue directions to the CEO to ensure appointment of Panchayat Karmi, however, it was also observed that the persons who are participants to earlier process of



selection should have been considered by the CEO while preparing merit list. Aforesaid judgment passed by the Single Bench of this Court was challenged in **Writ Appeal No.175/2009 [Chhabiram Kushwaha Vs. State of MP. & Others]** which was upheld by Division Bench by order dated 06.05.2009 and the judgment passed by Single Bench in the case of **Gandharv Singh (supra)** was upheld. However, in the case of **Ravindra Singh (supra)** Division Bench of this Court after taking note of the judgment passed by Single Bench of this Court in the case of **Gandharv Singh (supra)** drew a line of distinction on the ground that since first recruitment process was cancelled and the said order was never assailed, therefore, candidates who had participated in the first process of recruitment cannot seek any legitimate right to be considered in the fresh advertisement. If the facts of the case are considered, then it is clear that Collector, District Datia by order dated 05.03.2008 had directed the CEO, Janpad Panchayat Seondha, District Datia (M.P.) to invite applications for filling up the vacant post of Panchayat Karmi and to affix the notice on different and conspicuous places. One copy was also directed to be affixed on the notice board of Janpad Panchayat and publicity may be given in the Gram Panchayat area by beat of drum. It was also specifically mentioned that seven days time shall be granted for filling up of the application forms. Accordingly, on 24.03.2008, the advertisement was issued and due publicity was given which is evident from perusal of various Panchnamas relied by respondent No.4. In the present case, as Collector, Datia had directed CEO, Janpad Panchayat Seondha, District Datia to invite fresh applications, therefore, in the considered opinion of this Court the order passed by the Division Bench of this Court in the case of **Ravindra Singh (supra)** would apply and petitioner cannot claim any right to be considered for appointment to the post of



Panchayat Karmi as he has failed to submit application for the post of Panchayat Karmi, Gram Panchayat Bharouli, Tahsil Seondha, District Datia. So far as minimum time which is required to be given for filling up the application forms is concerned, the policy dated 27.01.2006 for filling up the post of Panchayat Karmi in the Gram Panchayat provides that seven days' time shall be granted for filling up application form. Since, the advertisement for filling up the post of Panchayat Karmi, Gram Panchayat Bharouli, Tahsil Seondha, District Datia was issued on 24.03.2008, therefore, in the considered opinion of this Court, policy dated 27.01.2006 would be applicable and seven days' time was rightly granted to fill up the application forms. Even, in the first advertisement, eight days' time was granted to fill up the forms. First advertisement was also issued on 20.08.2007, therefore, respondents did not commit any mistake by fixing seven days' time for filling up the application forms. So far as the question of non-affixture of advertisement at public places and non-grant of widespread publicity to the advertisement dated 24.03.2008 is concerned, petitioner has not challenged the authenticity of Panchnamaz filed by respondent No.4. Although rejoinder and additional rejoinder has been filed by petitioner yet neither in the rejoinder nor in additional rejoinder the petitioner has challenged the correctness of Panchnamaz relied upon by respondent No.4 to show that widespread publicity was given to the advertisement dated 24.03.2006. Merely by saying that advertisement was not published and copy of the same was not affixed on the notice board of Gram Panchayat and other places as indicated in the policy, it cannot be said that Panchnamaz relied upon by respondent No.4 were challenged. There is not a single whisper of word, thereby challenging the authenticity of Panchnamaz



relied upon by respondent No.4 to show that widespread publicity was given to advertisement dated 24.03.2008.

11. No other argument is advanced by counsel for petitioner.

12. Considering the totality of facts and circumstances of the case coupled with the fact that petitioner has not applied in response to advertisement dated 24.03.2008 and petitioner is the stranger to the appointment of respondent No.6 in compliance of advertisement dated 24.03.2008, no case is made out warranting interference.

13. Petition fails and is hereby *dismissed*.

**(G.S. Ahluwalia)**  
**Judge**