



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

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 10th OF MARCH, 2025

WRIT PETITION No. 4360 of 2012

MAHESH KUMAR ADIWASI

Versus

STATE OF M.P AND OTHERS

Appearance:

Shri K.K. Sharma – Advocate for petitioner.

Shri Ravindra Dixit – Government Advocate for respondent/State.

ORDER

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

- i) That, the order Annexure - P/1 passed by the Respondent no. 2 may kindly be quashed and the respondents may kindly be further directed to reinstate the petitioner in service over the post of Assistant Veterinary Field Officer with all consequential benefits.
- ii) That, any other relief which is suitable in the facts and circumstances of the case in favour of the petitioner including the costs throughout may also be granted.

2. It is submitted by counsel for petitioner that petitioner was working as Assistant Veterinary Field Officer. In the year 2004, elections for the post of were



held. Since petitioner was interested to contest the elections, therefore, on 16.12.2004, he submitted his resignation, however, the resignation was not accepted. In spite of that petitioner contested the election and he got selected as Member of Jila Panchayat. On 01.02.2007, he sought permission to withdraw his resignation on the ground that it has not been accepted so far. The said request was also forwarded by Deputy Director, Veterinary Services, by his letter dated 23.02.2007. Thereafter, petitioner also filed Writ Petition No.5200/2008 which was disposed of by order dated 05.05.2011. It is submitted that now by order dated 07.11.2007 (Annexure P-1), resignation of petitioner has been accepted with effect from 16.12.2004.

3. Challenging the order passed by the Commissioner, Veterinary Services, it is submitted by counsel for petitioner that although petitioner had submitted his resignation on 16.12.2004 but it was never accepted. Therefore, petitioner was well within his right to withdraw his resignation and accordingly he moved an application on 01.02.2007 for the said purpose. Since the resignation was not accepted by that time, therefore, petitioner could have validly withdrawn that resignation and thus the respondents have committed material illegality by accepting the resignation with effect from 16.12.2004.

4. Considered the submissions made by counsel for petitioner.

5. The following dates are necessary for adjudication of this case:

- (a) In the year 2004, elections of Jila Panchayat were announced;
- (b) Petitioner submitted his resignation on 16.12.2004;
- (c) Before resignation could be accepted, petitioner must have absented himself as he contested the election for the post of Member, Jila Panchayat and he got elected also;
- (d) On 01.02.2007 petitioner filed an application for withdrawal of his resignation; and



(e) By order dated 07.11.2007, his resignation has been accepted with effect from 16.12.2004.

6. It is clear that petitioner illegally contested the election for the post of Member, Jila Panchayat as he was holding the office of profit and his resignation was not accepted. Since election of petitioner to the said post is not in question, therefore, this Court is not dealing with that aspect in detail except by saying that election fought by petitioner was not in accordance with law.

7. On 07.11.2007 when the resignation was accepted, petitioner was still holding the post of Member, Jila Panchayat. Therefore, while holding the post of Member, Jila Panchayat, petitioner could not have worked as Assistant Veterinary Field Officer and therefore, respondents did not commit any mistake by accepting his resignation with effect from 16.12.2004. Undisputedly, petitioner had not completed 20 years of his services on 16.12.2004 and therefore services rendered by him had stood forfeited.

8. Be that whatever it may be.

9. On 07/11/2007, since petitioner was holding the post of elected member of Jila Panchayat, Shivpuri (M.P.), therefore, respondents did not commit any mistake by accepting the resignation of petitioner with effect from 16.12.2004.

10. Accordingly, petition fails and is hereby *dismissed*.

(G.S. Ahluwalia)
Judge