



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT
ON THE 3rd OF FEBRUARY, 2026
WRIT PETITION No. 4498 of 2013
RAMASHANKAR MATHUR
Versus
STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri D.P. Singh - Advocate for petitioner.

Shri Yogesh Parashar – Government Advocate for respondent/State.

ORDER

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

“i) That, the charge sheet Annexure - P/1 may kindly be quashed with a further directions to the respondents not to take any coercive steps in view of the charge sheet issued by the Respondent no.2.
ii) Cost of the petition be awarded or any other order or direction deemed fit in the circumstances of the case be issued in the favour of the petitioner.”

2. Learned counsel for the petitioner submits that the charge sheet dated 25.04.2013 was issued by respondent No. 2 while exercising powers in excess of his jurisdiction. It is further submitted that the charge sheet was issued under Section 14 of the M.P. Civil Services (Classification, Control and Appeal) Rules,



1966, which are not applicable to the petitioner, as the services of the petitioner are governed by the provisions of the Madhya Pradesh Panchayat Services (Recruitment and General Conditions of Services) Rules, 1999. As per the provisions of the 1999 Rules, Part III deals with disciplinary powers, which are vested in the Chief Executive Officer; therefore, the charge sheet issued by the respondent/Collector is illegal. It is further submitted that this controversy has already been decided by co-ordinate Bench of this Court vide **order dated 01.03.2017 (Govind Singh Yadav Vs. State of M.P. & Others- W.P.4067/2011)**. The co-ordinate Bench in **Govind Singh Yadav (supra)** has held that Collector did not possess the power to impose major penalty and learned counsel for petitioner prayed other grounds too.

3. *Per contra*, learned counsel for State, while supporting the order impugned, opposed the prayer made by learned counsel for petitioner. It is submitted that Collector is the head of the Panchayat in a district and being head of the district and as per Notification No.C-6-7-96-3-1 dated 23rd May, 1996, published in M.P Rajpatra (Ext.) dated 10.01.2007, Collector is empowered to take action against petitioner. Learned counsel for respondent/State relied upon order dated 13.4.2018 passed in W.P. No.13352/2017 [**Shiv Prasad Uikley v. The State of Madhya Pradesh**].

4. Heard learned counsel for parties and perused the record.

5. Admittedly, petitioner has been appointed by Chief Executive Officer Janpat Panchayat, Bhitarwar, Gwalior by order dated 29.09.1998 and co-ordinate Bench of this Court has already considered the similar issue in **Govind Singh Yadav (supra)**, relevant of which is reproduced below for ready reference and convenience:



The second submission of the learned counsel for the petitioner is that vide Notification No.C-6-7-96-3-1 dated 23rd May, 1996, published in M.P Rajpatra (Ext.) dated 10.01.1007, the State Govt. has delegated the powers to the Collector to exercise the powers under Rule 9 to suspend and Rule 10 to impose minor penalty on all the employees of Class III and Class IV of all the departments (except Police workers) posted in their District with effect from 23rd May, 1996. The Collector has exceeded the jurisdiction by imposing the major penalty which could not have been done. The Collector had only the jurisdiction to the extend of imposing minor penalty. In the instant case, since the Collector has imposed the major penalty, the impugned order is not sustainable.

The Third submission is that the Collector is not the appointing authority of the petitioner. The Director of Agricultural is the appointing authority and, therefore, if any major penalty is required to be imposed on the petitioner that can only be imposed by the appointing authority and not by the Collector.

On the other hand, the learned counsel for the respondent/State by filing the return contended that no illegality has been committed by the Collector in passing the order dated 07.10.2010 (Annexure P/2). The petition deserves to be dismissed.

Rule 10 of the Civil Services (Classification, Control and Appeal) Rules 1966 is reproduced as under:-

“10. Penalties:- The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed on a Government servant, namely :-

Minor penalties:-

(i) Censure;

(ii) withholding of his promotion;

(iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;

(iv) withholding of increments of pay or stagnation allowance;

Major penalties:-

(v) reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not, the Government servant will earn increments of pay "or the



stagnation allowance, as the case may be" during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments or his pay or stagnation allowance.

Note:- *The expression "reduction to a lower stage in the time scale of pay" shall also include reduction of pay from the stage of pay drawn by a Government servant on account of grant of stagnation allowance, if any.*

(vi) reduction to a lower time-scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post or Service from which he was reduced, with or without further directions regarding conditions of restoration to the grads or post or Service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or service;

(vii) compulsory retirement;

(viii) removal from service which shall not be a disqualification for future employment under the Government;

(ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Government:

(xxx)"

Admittedly, the Collector, vide order dated 07.10.2010 has imposed the penalty of stoppage of withholding of one increment with cumulative effect which is a major penalty. From bare perusal of the Rule quoted herein-above, it is clear that the punishment imposed does not fall under the category of minor penalties and as such, the Collector did not posses the power to impose major penalty. The appellate authority without considering the application for condonation of delay dismissed the appeal as time barred.

In view of the aforesaid analysis, this Court is of the view that the impugned order of punishment imposing stoppage of one increment with cumulative effect is a major penalty, therefore, the order dated 07.10.2010 (Annexure P/2) as well as order dated 04.01.2011 (Annexure P-1) are hereby set-aside. However, the respondents are free to proceed in accordance with law if so advised.

The petition stands allowed to the extent as indicated above.



6. The co-ordinate Bench of this Court vide **order dated 18.04.2018** passed in **WP. No.14665/2017 [Ramesh Deen Baiga Vs The State Of Madhya Pradesh]** has already held that being a higher authority to prescribed authority, higher authority is not empowered to issue major penalty. Relevant portion of order passed in **Ramesh Deen Baiga (supra)**, for ready reference and convenience, is reproduced below:

The petitioner was initially appointed on the post of Assistant Teacher on 27.06.1996 since then he is performing his work without any complaint. Respondent no.4 has issued a show cause notice to the petitioner on 16.06.2017. The petitioner filed the reply to the said show cause notice on 19.06.2017. Respondents thereafter passed an order dated 01.09.2017 thereby suspending the services of the petitioner. The petitioner has challenged this order on the ground that the petitioner is a Class-III employee and their appointing and disciplinary authority is the Assistant Commissioner for the purpose of imposing any of the major or minor penalties. The State Government has delegated the power to take disciplinary action in respect of Class-III and Class IV employees to the Collector. Thus, the impugned order issued by respondent no.2 is without jurisdiction. He further state that vide order dated 23.05.1999 the State Government has delegated the power to the Commissioner (Revenue) within Division to take disciplinary action against the employees of Class-I and Class-II officers. In the present case as the petitioner is a Class-III employee, therefore, the Commissioner (Revenue) has no jurisdiction to suspend the petitioner. He further submits that when the statute confers power on an authority and prescribes the mode for exercising that power then the same has to be exercised by that authority alone. As per the mode prescribed by the statute, the Commissioner is neither the appointing or disciplinary authority of the petitioner. Learned counsel for the petitioner further relied on the order passed by this Courts in W.P. No.3380/2013 in the case of Hari Shankar Shukla Vs. State of M.P. and Others decided on 06.03.2013.



Respondents have filed their reply and in the reply respondents have stated that the appointing and disciplinary authority of the petitioner is the Assistant Commissioner and the Rule 9 of the CCA Rules, prescribed that the appointing authority or any authority to which it is subordinate or the disciplinary authority may place a Government servant under suspension. In the present case, the Assistant Commissioner is the appointing authority which is subordinate to the Commissioner, therefore, as per Rule 9 of the CCA Rules, 1966, the Commissioner has power to suspend the petitioner. Respondents have further submits that the petitioner was negligent in discharging his duties and on account of the negligent act of the petitioner, the Government has suffered the lost of Rs.1,45,000/-. Respondents have further stated that the suspension is not a punishment, therefore, before passing the order of suspension no opportunity of hearing is required to be given.

Heard learned counsel for the parties and perused the record. From perusal of the record, it reveals that the petitioner was appointed on the post of Assistant Teacher which is a Class-III post. The State Government has issued a circular dated 02.08.1999 thereby delegating the powers for imposing of minor punishment to the Division Commissioner in respect of Class-I and Class-II employees. As per the said circular, the Commissioner is not entitled to place the Class-III employees under suspension. The competent authority to place the petitioner under suspension is the Collector. The powers under Rule 9 and Rule 10 of the CCA Rules, 1966 have been delegated to the Commissioner in respect of Class-I and Class-II employees. In the present case, the Commissioner has passed the order dated 01.09.2017 thereby placing the petitioner under suspension. The said order is challenged by the petitioner on the ground that the petitioner being a Class-III employee and, therefore, the Commissioner has no power to suspend the petitioner. The contention of learned Government Advocate that as per Rule 9 of the CCA Rules, the appointing authority or any other authority to which it is subordinate or the disciplinary authority may place a Government servant under suspension cannot be accepted because in the present case, the Assistant Commissioner of Tribal Welfare Department is the appointing authority and the



Assistant Commissioner is the subordinate to the Commissioner of that Department and not the Commissioner of Revenue Department.

*This Court in the case of **Hari Shankar Shukla (supra)** has held as under:-*

*"I have considered the respective submissions made by learned counsel for the parties. Admittedly, the petitioner is a Class III employee. From the order dated 23.05.1996, it is apparent that the powers under Rule 9 and Rule 10 of the Madhya Pradesh Civil Service (Classification, Control & Appeal) Rule, 1966 in respect of Class-III & Class-IV employees, have been delegated to the Collector and thus, the Collector is the competent authority to place the petitioner under suspension. It is well settled in law that when a statute confers power on an authority and prescribes the mode for exercising that power, the same has to be exercised by that authority alone and it has to be exercised only in the mode which is prescribed by the statute. The power cannot be exercised by a higher authority. Any other mode of performance is necessarily forbidden. It is equally well settled in law that if the power conferred on the authority is exercised by that authority on the dictates of higher authority, the same is vitiated in law. [See : **Commissioner of Police Vs. Gordhandas Bhanji**, AIR 1952 SC 16 and **Chairman-cum-M.D., Coal India Ltd. Vs. Ananta Saha**, 2011 AIR SCW 3240]."*

In view of the aforesaid reasons, the impugned order dated 01.09.2017 is hereby set aside. However, the Collector is at liberty to take action in accordance with law.

Accordingly, the writ petition is allowed."

7. The Hon'ble Supreme Court in the case of **Joint Action Committee of AIR Line Pilots' Association of India (ALPAI) And Others Vs. Director General of Civil Aviation And Others** reported in (2011) 5 SCC 435 has held as under:

"26. The contention was raised before the High Court that the Circular dated 29-5-2008 has been issued by the authority having no competence, thus cannot be enforced. It is a settled legal proposition



that the authority which has been conferred with the competence under the statute alone can pass the order. No other person, even a superior authority, can interfere with the functioning of the statutory authority. In a democratic set-up like ours, persons occupying key positions are not supposed to mortgage their discretion, volition and decision-making authority and be prepared to give way to carry out commands having no sanctity in law. Thus, if any decision is taken by a statutory authority at the behest or on suggestion of a person who has no statutory role to play, the same would be patently illegal. (Vide Purtabpore Co. Ltd. v. Cane Commr. of Bihar [(1969) 1 SCC 308 : AIR 1970 SC 1896] , Chandrika Jha v. State of Bihar [(1984) 2 SCC 41 : AIR 1984 SC 322] , Tarlochan Dev Sharma v. State of Punjab [(2001) 6 SCC 260 : AIR 2001 SC 2524] and Manohar Lal v. Ugrasen [(2010) 11 SCC 557 : (2010) 4 SCC (Civ) 524 : AIR 2010 SC 2210] .)

27. *Similar view has been reiterated by this Court in Commr. of Police v. Gordhandas Bhanji [1951 SCC 1088 : AIR 1952 SC 16], Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia [(2004) 2 SCC 65 : AIR 2004 SC 1159] and Pancham Chand v. State of H.P. [(2008) 7 SCC 117 : AIR 2008 SC 1888] observing that an authority vested with the power to act under the statute alone should exercise its discretion following the procedure prescribed therein and interference on the part of any authority upon whom the statute does not confer any jurisdiction, is wholly unwarranted in law. It violates the constitutional scheme.*

28. *In view of the above, the legal position emerges that the authority who has been vested with the power to exercise its discretion alone can pass the order. Even a senior official cannot provide for any guideline or direction to the authority under the statute to act in a particular manner.”*

8. Admittedly, the appointing authority of petitioner is the Chief Executive Officer Janpat Panchayat, Bhitarwar, Gwalior and as per the Notification No.C-6-7-96-3-1 dated 23rd May, 1996, published in M.P Rajpatra (Ext.) dated



10.01.2007, the State Govt. has delegated the powers to Chief Executive Officer to exercise the powers under Rule 9 to suspend and Rule 10 to impose minor penalty on all the employees of Class III and Class IV of all the departments (except Police workers) posted in their District with effect from 23rd May, 1996.

Certainly, the Collector has exceeded his jurisdiction by issuing charge sheet dated 25.4.2013 which could not have been done. Notification. No. C-6-7-96-3-1. dated 23rd May, 1996, Published in M.P Rajpatra (Ext.), dated 10.1.1997, p. 53 is reproduced below for ready reference and convinience:

[2] Notfn. No. C-6-9(A)-99-3Ek, dated 21.2.2000, Pub. In M.P. Rajpatra Pt. I. Dated 3-3-2000, p. 476 -Without prejudice to the generality of the powers conferred under the Madhya Pradesh Civil Services (Classification Control and Appeal) Rules 1966, and in exercise of the powers conferred by sub-rule (1) of Rule 9, sub-rule (2) of Rule 12 and Rule 24 of the said rules. The Governor of Madhya Pradesh, hereby empowers the Chief Executive Officer of the concerned Zila Panchayat to suspend or to impose minor penalties as are specified in clause (i) to clause (iv) of Rule 10 of the said rules, in respect of such class III and class IV Government servants of the department of the Scheduled Caste and Scheduled Tribe Welfare, Agriculture Panchayat and Rural Development, Veterinary, Fisheries, Women and Child Development, Punblic Health and Family Welfare, Medical Education, School Education Social Welfare and Rural Industries whose services have been placed by the State Government under Control of Panchayats under the provisions of clause (xii) of sub-section (1) of Section 52 of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No.1 of 1994) an such Government servant may prefer an appeal against the order of the Chief Executive Officer to the head of the concerned department.

9. As per the notification dated 03.03.2000, the Chief Executive Officer, Zila Panchayat, is the disciplinary authority of the petitioner for Class III and Class IV posts of the Panchayat Department.



10. As per Appendix of Panchayat Service (Discipline and Appeal) Rules, 1999 is quoted below for ready reference and convenience:

S.No.	Class of Panchayats	Class of Service	Disciplinary Authority	Kind of Penalty referred to in rule 5 which may be imposed	Appellate Authority
(1)	(2)	(3)	(4)	(5)	(6)
1.	Zila Panchayat/Janpad Panchayat	Class III and IV	Chief Executive Officer	Minor Penalty	General Administration Committee.
	Zila Panchayat/Janpad Panchayat	Class III and IV	General Administration Committee	Major Penalty	General Body

11. As Appendix of the Panchayat Service (Discipline and Appeal) Rules, 1999, in respect of all Class III and Class IV employees of the Zila Panchayat/Janpad Panchayat, the Chief Executive Officer is the disciplinary authority for minor penalties, and the General Administration Committee is the disciplinary authority for major penalties, therefore, as per appendix and notification dated 23.5.1996 Collector is not competent to issue charge sheet.

12. Learned counsel for the respondent/State relied upon the order dated 13.04.2018 passed in W.P. No. 13352/2017 [*Shiv Prasad Uikley v. The State of Madhya Pradesh*], which is not applicable to the present case. In the aforesaid case, petitioner therein was an employee of the Horticulture Department, whereas



in the present case, petitioner is an employee of the Zila Panchayat/Janpad Panchayat. Therefore, the aforesaid judgment is not applicable to the present case.

13. In view of aforesaid, impugned charge sheet dated 25.4.2013 (Annexure P/1) is hereby quashed. However, respondents are free to proceed against petitioner in accordance with law, if so advised.

14. Consequently, present petition stands ***allowed and disposed of***, to the extent indicated above.

(Anand Singh Bahrawat)
Judge

Ahmad