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WP-25361-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ASHISH SHROTI

ON THE 5th OF FEBRUARY, 2026WRIT PETITION No. 25361 of 2022*MUNSI LAL MAHORE**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Nitin Agrawal - Advocate for the petitioner.

Smt. Monika Mishra- GA for the respondents/State.

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ORDER

Petitioner is aggrieved by the order dated 23/10/2022 (Annexure P/1) passed by the District Education Officer, whereby, he has been dismissed from service under Rule 10(ix) of the M.P. Civil Services (Classification, Control & Appeal) Rules, 1966 (for short "CCA Rules") on the ground that an FIR has been registered against him for serious offences.

2. Facts necessary for decision of this case are that the petitioner was holding the post of Assistant Teacher and was posted at Govt. Primary School, Arrolli, Development Block Morar, Gwalior. An FIR was registered against him at Police Station Behat, District Gwalior on 22/10/2022 for offence punishable under 354 of IPC read with Section 7 & 8 of POCSO Act. Taking note of the FIR, respondent no.3 passed the impugned order on the next date i.e. 23/10/2022, thereby, dismissing the petitioner from service on account of aforesaid FIR registered against him for the serious offences.



The aforesaid order has been passed on the directions of the Collector, Gwalior. Challenging this order, the petitioner has filed the present writ petition.

3. The impugned order of dismissal from services has been challenged by the petitioner primarily on the ground of violation of principles of natural justice. The learned counsel for the petitioner submitted that the petitioner was a confirmed Govt. servant, and therefore, he could not have been dismissed from service merely on registration of FIR against him. Learned counsel referred to the provisions of Rule 10 of CCA Rules and submitted that no punishment could have been imposed upon the petitioner without conducting departmental enquiry. He also submitted that the petitioner was falsely implicated in the criminal case because of the political rivalry of the parents of children, and therefore, without affording him opportunity of hearing, the petitioner could not have been dismissed from service.

4. On the other hand, counsel for the State supported the impugned action of respondent no.2 & 3. She submitted that the petitioner was working as Teacher and the allegations made against him are with regard to misbehaviour with the minor girl students constituting serious offence under the POCSO Act which could not have been tolerated. Learned counsel argued that Rule 19 of the CCA Rules empowers the competent authority to waive the procedure for conducting enquiry in cases of involvement of a Govt. servant in serious criminal acts. She also submitted that during the pendency of this petition, the petitioner has been convicted for the aforesaid offence vide judgment dated 8/4/2024 passed in Special Case (Sessions)



No.288/2022 by XI Additional District & Sessions Judge, Gwalior. She thus submitted that since the allegations levelled against the petitioner have been duly established in the criminal case, the petitioner even otherwise does not warrant continuance in service.

5. The learned Govt. Advocate further pointed out that the petitioner was arrested on 24/10/2022 and he remained in custody till 7/7/2025 when this Court, while suspending his remaining jail sentence, enlarged him on bail in Cr.A. No.6201/2024. She thus submitted that based upon the conviction of the petitioner, the impugned order is justified and does not warrant any interference in the present writ petition. She therefore, prayed for dismissal of the writ petition.

6. Considered the arguments and perused the record.

7. It is not in dispute that the impugned order dated 23/10/2022 was passed based upon the FIR registered against the petitioner on 22/10/2022. The impugned order refers to Rule 10(ix) of the CCA Rules, which contemplates major punishment of dismissal from service.

8. The opening words of Rule 14 of CCA Rules provides that "*No order imposing any of the penalties specified in clauses (v) to (ix) of rule 10 shall be made except after an inquiry held*". The punishment order of dismissal from service, therefore, could not have been passed without conducting enquiry. The learned Govt. Advocate pressed into service Rule 19 to justify the impugned action. However, Rule 19 empowers the authority to pass order without inquiry only in case of conviction of a Govt. servant in a criminal charge. Admittedly, only FIR was registered against the petitioner



and was not convicted, when the impugned order was passed. The impugned order is, therefore, not in consonance with either Rule 14 or Rule 19 of CCA Rules. The learned counsel for the petitioner is, therefore, right in submitting that the major punishment could not have been imposed upon the petitioner without conducting departmental enquiry.

9. The learned counsel for respondents argued that the petitioner has been convicted for offence alleged against him, during the pendency of this petition. She submitted that, based upon his subsequent conviction, the impugned order is not liable for interference. To appreciate this contention, the facts relating to petitioner's involvement in criminal case needs to be examined.

10. In connection with the aforesaid crime, petitioner was arrested on 24/10/2022. His bail application was rejected by the Special Court, Gwalior on 31/10/2022. As stated by learned Govt. counsel, the petitioner was thereafter convicted vide judgment dated 8/4/2024 for the offence alleged against him. The petitioner has challenged the judgment of conviction before this Court in Cr.A. No.6201/2024, wherein, he has been enlarged on bail vide order dated 7/7/2025. Thus, the petitioner has remained in custody for 2 years and 9 months.

11. For the purpose of appreciating the contention of learned counsel for the petitioner that petitioner was falsely implicated in the criminal case, this Court has gone through the judgment dated 8/4/2024 passed in criminal case from the files of Cr.A. No.6201/2024 (available on ERP). It is gathered that the minor victim has unequivocally supported the allegation not only in



her statement recorded under Section 164 of Cr.P.C. but also in her statement recorded during trial. The petitioner has been convicted based upon the statement of the victim who was aged about eight years on the date of incident.

12. Therefore, the issue for consideration is as to whether based upon petitioner's subsequent conviction, the impugned order is not liable to be set aside? The Apex Court in the case of *Chandra Singh & Ors. Vs. State of Rajasthan & Ors.*, reported in (2003)6 SCC 545 has held in para 42 & 43 as under:-

"42. In any event, even assuming that there is some force in the contention of the appellants, this Court will be justified in following Taherakhaton v. Salambin Mohd. [(1999) 2 SCC 635] wherein this Court declared that even if the appellants' contention is right in law having regard to the overall circumstances of the case, this Court would be justified in declining to grant relief under Article 136 while declaring the law in favour of the appellants.

43. Issuance of a writ of certiorari is a discretionary remedy. (See Champalal Binani v. CIT [(1971) 3 SCC 20 : AIR 1970 SC 645] .) The High Court and consequently this Court while exercising their extraordinary jurisdiction under Article 226 or 32 of the Constitution of India may not strike down an illegal order although it would be lawful to do so. In a given case, the High Court or this Court may refuse to extend the benefit of a discretionary relief to the applicant. Furthermore, this Court exercised its discretionary jurisdiction under Article 136 of the Constitution of India which need not be exercised in a case where the impugned judgment is found to be erroneous if by reason thereof substantial justice is being done. [See S.D.S. Shipping (P) Ltd. v. Jay Container Services Co. (P) Ltd. [(2003) 4 Supreme 44]] Such a relief can be denied, inter alia, when it would be opposed to public policy or in a case where quashing of an illegal



order would revive another illegal one. This Court also in exercise of its jurisdiction under Article 142 of the Constitution of India is entitled to pass such order which will do [Corrected as per Official Corrigendum No. F.3/Ed. B.J./11/2004 dated 27-1-2004] complete justice to the parties."

13. Similar view is reiterated by Apex Court in the case of *AI-Can Export (P) Ltd. vs. Prestige H.M. Polycontainers Ltd.* reported in (2024)9 SCC 94 wherein the Court held as under:

"99. It is well-settled principle in law that issuance of a writ or quashing/setting aside of an order if revives another pernicious or wrong or illegal order then in that eventuality the writ court should not interfere in the matter and should refuse to exercise its discretionary power conferred upon it under Article 226 of the Constitution. The writ court should not quash the order if it revives a wrong or illegal order. (Vide : *Gadde Venkateswara Rao v. State of A.P.* [*Gadde Venkateswara Rao v. State of A.P.*, 1965 SCC OnLine SC 25 : AIR 1966 SC 828] ; *Chintamani Saran Nath Shahdeo v. State of Bihar* [*Chintamani Saran Nath Shahdeo v. State of Bihar*, (1999) 8 SCC 16 : AIR 1999 SC 3609] ; *M.C. Mehta v. Union of India* [*M.C. Mehta v. Union of India*, (1999) 6 SCC 237 : AIR 1999 SC 2583]; *Mallikarjuna Mudhagal Nagappa v. State of Karnataka* [*Mallikarjuna Mudhagal Nagappa v. State of Karnataka*, (2000) 7 SCC 238 : 5 SCEC 82 : AIR 2000 SC 2976] ; *Chandra Singh v. State of Rajasthan* [*Chandra Singh v. State of Rajasthan*, (2003) 6 SCC 545 : 2003 SCC (L&S) 951 : AIR 2003 SC 2889] and *Raj Kumar Soni v. State of U.P.* [*Raj Kumar Soni v. State of U.P.*, (2007) 10 SCC 635])."

14. Thus, the jurisdiction exercised by this Court under Article 226 of the Constitution of India, being equitable and discretionary, even though, the law is declared in favour of petitioner, the relief can be denied to the



petitioner based upon the circumstances.

15. After parents, teachers influence a child the most and have a big part in shaping their personalities and future. So, it is important that teachers lead by example and not just by words. Teachers have to be ethical in their behaviour and no one can be allowed to act as teacher, who has failed to exhibit good character. As noted above, the petitioner has been held guilty of the offence under a serious offence under POCSO Act. The victim minor child has made categorical allegations against the petitioner during the trial. The petitioner, being a teacher, is expected to maintain high standard of moral ethics. Thus, even though, the impugned order of punishment dated 23/10/2022 is found to have been passed in violation of procedure prescribed under CCA Rules, since the petitioner has been convicted for the serious offence, at this stage, this Court does not find any good ground to interfere with the punishment order.

16. In view of the discussion made, the order dated 23/10/2022 passed by respondent no.3 on the direction of respondent no.2, is upheld. The petition is **dismissed**. However, it is observed that the petitioner would be at liberty to seek cancellation of the punishment order, in case, he is acquitted in the criminal appeal pending before this Court.

(ASHISH SHROTI)
JUDGE