

**IN THE HIGH COURT OF MADHYA PRADESH**  
**AT GWALIOR**  
**BEFORE**  
**HON'BLE SHRI JUSTICE ASHISH SHROTI**  
**WRIT PETITION No.12832 OF 2023**  
***NIRMAL SINGH CHAUHAN***  
***Versus***  
***STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

Shri D.P. Singh - learned counsel for the petitioner.

Ms. Monika Mishra - learned Government Advocate for the respondents/State.

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**Reserved on : 12/02/2026**

**Delivered on : 23/02/2026**

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**ORDER**

- 1.** The petitioner has challenged order dated 20/12/2021 (Annexure-P/1), whereby the punishment of withholding four increments with cumulative effect was imposed on him by respondent no.3 on account of certain misconduct found proved in the departmental enquiry. He has also challenged order dated 02/05/2023 (Annexure-P/1), whereby his appeal was partly allowed by respondent no.2 and major punishment was substituted by a minor penalty of stoppage of two increments without cumulative effect. The petitioner also challenges the charge-sheet dated 20/03/2020 (Annexure-P/9) being without jurisdiction.
- 2.** The facts necessary for decision of this case are that the petitioner was initially appointed as Assistant Teacher in respondent-Tribal Welfare

Department. He was posted as Warden in Post-Matric Boys Hostel No.2, 3 & 4, Shriram Colony, Lashkar, Gwalior. He was thereafter, transferred and posted as Warden in Boys Hostel, Behat, Gwalior.

3. With regard to his working as warden in Post-Matric Boys Hostel No.2, 3 & 4, Shriram Colony, Lashkar, Gwalior, certain complaints of financial irregularities were noticed. A preliminary enquiry was conducted by a committee of six members who *prima-facie* found the allegations correct. Accordingly, the Collector- respondent no.3 issued a charge-sheet on 20/03/2020 thereby levelling three charges against the petitioner. Charges related to using the amount of scholarship towards maintenance and repairing of the hostel no.2, 3 & 4. It was, thus, alleged that he misused the official funds. The petitioner submitted reply to the charge-sheet on 24/07/2020 (Annexure-P/10) thereby denying the allegations. He stated in his reply that the repairing and maintenance work of hostel was carried out on account of complaints made by the students before the Chief Minister and the same was got done on oral instructions given from time to time by the Assistant Commissioner, Sub-Engineer and the Deputy Collector. He also submitted that amount in question is not used by him for his personal purpose but has been utilized only for the betterment of the hostel.

4. In furtherance of the departmental enquiry, the Joint Collector was appointed as Enquiry Officer while the Assistant Commissioner, Gwalior was appointed as Presiding Officer. The enquiry was conducted and thereafter, a report was submitted by the Enquiry Officer on 05/10/2021 wherein he found charge no.1 & 3 as proved while charge no.2 as partly proved.

5. Respondent no.3, thereafter, passed the impugned order dated 20/12/2021 thereby imposing major punishment of withholding of four increments with cumulative effect on the petitioner. It was held that the petitioner has withdrawn amount of scholarship and has used the same for repairing of mess and hostel and also for other use of hostel. This was found to be misuse of the Government funds and dereliction of duty on the part of the petitioner. Being aggrieved, the petitioner challenged the punishment order before respondent no.2 who vide order dated 02/05/2023 (Annexure-P/1) though upheld the findings of guilt against the petitioner, however, modified the major punishment inflicted by respondent no.3 into a minor punishment of stoppage of two increments without cumulative effect. Notably respondent no.2 rendered a finding that respondent no.3 was competent to impose only minor punishment on the petitioner and the major punishment inflicted by him is without jurisdiction. He, accordingly, rectified the mistake by modifying major punishment into a minor punishment. Challenging these orders passed by respondents no.2 & 3, the petitioner has filed the present writ petition.

6. Learned counsel for the petitioner challenged the impugned action initiated against the petitioner at the instance of respondent no.3 being without jurisdiction. It is his submission that the respondent no.3 has been empowered to inflict only minor punishment on Class-III & IV employee vide notification dated 23/05/1996 (Annexure-P/12). It is his submission that respondent no.3 was, therefore, not competent to initiate major penalty proceedings under Rule 14 of M.P. Civil Services Classification, Control and Appeal) Rules, 1966, (n short 'CCA Rules') against the petitioner. He also argued that respondent no.3 erred in imposing major

punishment of withholding of four increments with cumulative effect inasmuch as he was empowered only to inflict minor punishment. The appellate order is also challenged stating that the respondent no.2 could not have rectified the inherent lack of jurisdiction by substituting major penalty by minor penalty. He also challenged the impugned punishment on the ground that the enquiry report submitted by the Enquiry Officer was never supplied to the petitioner which has caused serious prejudice to him. He also challenged the appellate order passed by respondent no.2 on the ground that respondent no.2 failed to consider the grounds raised by the petitioner in his appeal and has only considered the issue of competence of respondent no.2. He, thus, argued that the appellate order passed by respondent no.2 is non-speaking and liable to be set-aside.

7. On the other hand, learned Government Advocate for the respondents/State supported the impugned orders. It is her submission that even though respondent no.3 was empowered to impose minor punishment, he was competent to initiate major penalty proceedings under Rule 14 of CCA Rules. Learned Government Advocate further submitted that the mistake of imposing major punishment by respondent no.3 has already been rectified by respondent no.2 by modifying the punishment to a minor punishment. She, thus, submits that no illegality has been committed by the authorities. Regarding non-supply of enquiry report, learned Government Advocate submitted that mere non-supply of the report would not vitiate the proceedings unless the petitioner establishes prejudice that has been caused to him because of such non-supply of the report. She also submitted that the factual findings recorded in the departmental enquiry are not open to interference by this Court in

exercise of powers of judicial review and therefore, no interference is warranted with the impugned orders. She, thus, prayed for dismissal of the petition.

8. On other point is raised. Considered the arguments and perused the record.

9. Based upon the rival submissions made by the learned counsel for the respective parties following issues arise for consideration:

(i) Whether he respondent no.3 was competent to initiate major penalty proceedings against the petitioner inasmuch as he is empowered to impose minor penalty only vide notification dated 23/05/1996?

(ii) Whether the modification of major penalty into minor penalty by respondent no.2 is legal and valid?

(iii) Whether the order passed by respondent no.2 is non-speaking inasmuch as it has considered the issue of competence of respondent no.3 only without addressing the grounds raised by petitioner in his appeal memo?

(vi) Whether, non-supply of the enquiry report to the petitioner has vitiated the impugned punishment?

**Issue no.i, ii & iii:**

10. Under Rule 12 of CCA Rules, it is the power of Government to impose on any Govt. servant, any penalty prescribed under Rule 10. The Governor may however empower any authority, by a general or special order, to impose any of the penalties specified in Rule 10. Rule 12 (1) & (2), being relevant, is reproduced as under:-

“12. Disciplinary authorities. (1) The Government may impose any of the penalties specified in Rule 10 on any Government servant.

(2) Without prejudice to the provisions of sub-rule (1), but subject to the provisions of sub-rule (3), any of the penalties specified in Rule 10 may be imposed on-

(a) member of State Civil Service by the appointing authority or the authority specified in the Schedule in this behalf or by any other authority empowered in this behalf by a general or special order of the Governor;

(b) a person appointed to a State Civil post by the authority specified in this behalf by a general or special order of the Governor, or [xxx] by the appointing authority or the authority specified in the Schedule in this behalf. ”

**11.** Thus, exercising powers under Rule 12(2)(a), the Collector has been empowered to impose minor penalty on Class-III & IV employees of the State Government vide notification dated 23/05/1996. Under the same provision, the Divisional Commissioner has been empowered to impose minor penalties on Class-I & II officers vide notification dated 10/01/1997. The objection of the petitioner is that, since the Collector was empowered only to impose minor punishments, he could not have initiated major penalty proceedings against the petitioner by way of charge-sheet dated 20/03/2020.

**12.** Rule 2(d) defines “disciplinary authority” to mean the authority competent under the rules to impose on a Government servant any of the penalties specified in Rule 10. Thus, by virtue of notification dated 25/09/1996, since the Collector has been empowered to impose minor penalties under Rule 10(i) to (iv), he becomes a disciplinary authority

within the meaning of Rule 2 (d) of CCA Rules.

**13.** Rule 13 of CCA Rules then prescribes authority to institute the proceedings. The same reads as under:-

“13. Authority to institute proceedings. (1) The Governor or any other authority empowered by him by general or special order may-

(a) institute disciplinary proceedings against any Government servant;

(b) direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in Rule 10.

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of Rule 10 may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in clauses (v) to (ix) of Rule 10 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.”

**14.** Thus, by virtue of Rule 13(2) even though the Collector was empowered to impose only minor penalties under Rule 10(i) to (iv), he was competent to initiate major penalty proceedings also.

**15.** Rule 14 of the CCA Rules then prescribes the procedure for imposing the penalties. Rule 14(21) provides as under:-

“14. Procedure for imposing penalties.-

xxx xxx xxx

(21)(a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (iv) of Rule 10 (but not competent to impose any

of the penalties specified in clauses (v) to (ix) of Rule 10); has itself inquired into or the articles of any charge and that authority, having regard to its own finding or having regard to its decision on any of the findings of any inquiring authority appointed by it, is of opinion that the penalties specified in clauses (v) to (ix) of Rule 10 should be imposed on the Government servant, that authority shall forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties.

(b) The disciplinary authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses if necessary in the interests of justice, recall the witness and examine, cross-examine and re-examine the witness and may impose on the Government servant such penalty as it may deem fit in accordance with these rules .”

**16.** Thus, conjoint reading of Rule 2(d), 12, 13 & 14(21) make it clear that the Collector even if empowered to impose only minor penalty, was competent to initiate major penalty proceedings against the petitioner. However, after the conclusion of the enquiry, if he was of the opinion that a major penalty is required to be imposed upon the petitioner, she was required to transmit the records of enquiry to the authority competent to

impose major penalty. Having not done so, the imposition of major penalty by the Collector himself was without jurisdiction. It is thus held that the charge sheet issued by Collector against the petitioner was legal and valid but the major punishment imposed by him was without jurisdiction.

17. In the appeal filed before respondent no.2, respondent no.2 rectified the mistake committed by the Collector. Finding that since the respondent no.3 was competent to impose only minor punishment, the respondent no.2 modified the major penalty into a minor penalty. Being the appellate authority, he was competent to do this. However, while doing so, he failed to consider various grounds raised by the petitioner in his appeal memo, and modified the punishment into a minor punishment because the respondent no.3 was competent to impose minor penalty only. While considering the appeal, the respondent no.2 was required to address the grounds raised by petitioner in his appeal memo. Having failed to do so, the appellate order also gets vitiated. Further, modifying the major punishment into a minor one, only to legalise the illegality committed by respondent no.3, ignoring the gravity of charges, is also not acceptable. Thus, the order passed by respondent no.2 modifying the major penalty into minor penalty is also found to unjustified and unsustainable.

**Issue no.iv:**

18. It is not in dispute that after conclusion of the departmental enquiry and submission of return brief by the Presenting Officer and the petitioner before the Enquiry Officer, the Collector has passed the impugned order dated 20/12/2021. Meaning thereby, the enquiry report, based upon which

the impugned punishment has been imposed, was not supplied to the petitioner. The petitioner has raised specific ground in this regard in the appeal before respondent no.2. However, the same was not considered in the appellate order. In this petition also, a specific ground of non-supply of enquiry report has been taken, however, the same is not rebutted by respondents in their reply. Pertinently, the copy of the enquiry report is not produced on record of this petition also.

**19.** The constitution Bench of the Apex Court in the case of *ECIL v. B. Karunakar*, reported in (1993)4 SCC 727 has held that non-supply of enquiry report violates principles of natural justice. The Court has held in para 27 as under:-

"27. It will thus be seen that where the enquiry officer is other than the disciplinary authority, the disciplinary proceedings break into two stages. The first stage ends when the disciplinary authority arrives at its conclusions on the basis of the evidence, enquiry officer's report and the delinquent employee's reply to it. The second stage begins when the disciplinary authority decides to impose penalty on the basis of its conclusions. If the disciplinary authority decides to drop the disciplinary proceedings, the second stage is not even reached. The employee's right to receive the report is thus, a part of the reasonable opportunity of defending himself in the first stage of the inquiry. If this right is denied to him, he is in effect denied the right to defend himself and to prove his innocence in the disciplinary proceedings."

**20.** Considering the aforesaid, on account of non-supply of enquiry report to the petitioner, the punishment inflicted on him by respondent no.3 is even otherwise illegal and unsustainable in law. The order passed by respondent no.2 is also unsustainable inasmuch as he also failed to

consider this important aspect of the matter and further failed to supply copy of enquiry report to the petitioner.

**21.** As a result of the aforesaid discussion, order dated 20/12/2021 (Annexure-P/2) passed by respondent no.3 as also order dated 02/05/2023 (Annexure-P/1) passed by respondent no.2 are found to be unsustainable in law and are, accordingly, set-aside. The matter is remitted to Collector-respondent no.3 to take steps afresh from the stage of supply of copy of enquiry report to the petitioner. After taking his explanation on the findings recorded by the Enquiry Officer, if respondent no.3 is of the opinion that a major punishment is required to be imposed, he would transmit the enquiry record to the authority who is competent under the service rules to impose major penalty on the petitioner for further action in the matter.

**22.** Let needful be done within a period of 90 days' from the date of submission of certified copy of this order.

**23.** With the aforesaid, this writ petition is disposed of.

**(ASHISH SHROTI)  
JUDGE**

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