

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

BEFORE

**HON'BLE SHRI JUSTICE ANAND PATHAK
&
HON'BLE SHRI JUSTICE PUSHPENDRA YADAV**

WRIT APPEAL NO. 803 of 2024

STATE OF MADHYA PRADESH & ANR.

Vs.

SMT. NIRMALA TYAGI

&

WRIT APPEAL NO. 23 of 2025

STATE OF MADHYA PRADESH & ANR.

Vs.

LEELA DEVI BANSAL

APPEARANCE:

*Shri Ankur Mody – Additional Advocate General for the
appellants/State.*

Shri Prashant Sharma – Advocate for the respondent.

{Delivered on 17th the Day of September, 2025}

Per: Justice Anand Pathak

1. Regard being had to similitude of the dispute, both the writ appeals are being heard analogously and decided by this common order. For factual clarity, facts of Writ Appeal No.803/2024 are taken into consideration.
2. The present appeal (Writ Appeal No.803/2024) under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 is preferred by the appellant being crestfallen by the order dated 02-01-2024 passed by learned Single Judge in Writ Petition No.10627/2021 whereby the petition preferred

by respondent No.1 (hereinafter referred to as “the petitioner”) has been allowed, directing the appellants to grant Samman Nidhi to the petitioner.

3. Matter pertains to non grant of Samman Nidhi to the persons who remained in custody under Maintenance of Internal Security Act, 1971/Defence of India Rules, 1962 (hereinafter referred to as “the MISA/DIR”) due to political or social cause during the Emergency period. In the year 2008, the State of Madhya Pradesh promulgated the rules known as Lok Nayak Jayaprakash Narayan (MISA/D.I.R. Rajnaitik Ya Samajik Karnon Se Niruddh Vyakti) Samman Nidhi Niyam, 2008 (in short “the Rules of 2008”) to extend the benefit of pension/Samman Nidhi to the persons who remained in custody under MISA/DIR during the period of Emergency. In the said rules, prerequisites have been fixed by the State Government to grant the said Samman Nidhi to the persons. Under the Rules of 2008, the eligibility criteria to grant the Samman Nidhi was the certificate issued by the Jail authority/Police Station or District Magistrate, establishing the custody of the person under MISA/DIR.
4. Thereafter, vide Gazette Notification dated 04-01-2012 through clause 4.1, the eligibility criteria was modified and relaxed to the extent that the said Samman Nidhi will be granted to the persons who will submit the affidavits/certificates of two MISA/DIR detainees in his favour establishing his custody under MISA/DIR. Said amendment was withdrawn by the State Government vide Gazette Notification dated 25-09-2017 and clause 4.1 was deleted. Thus, again the person concerned was required to be submit certificate issued by the Jail authority/Police Station or District Magistrate to receive the said Samman Nidhi.

5. It is to be noted here that, the cut off date for submission of application to receive the said Samman Nidhi under the rules of 2008 was 31-03-2017. Petitioner's husband submitted his application before the cut off date which was dismissed by the Collector, District Gwalior vide Annexure P/1 to the petition. Earlier petitioner's husband preferred writ petition No.26434/2018 seeking the relief that respondents are not considering his case for grant of Samman Nidhi. The said writ petition was disposed of with the direction to the respondents to consider the case of petitioner but because of non-compliance of the order, petitioner preferred Contempt Petition No.2532/2019 and during pendency of that petition, appellants passed the order impugned Annexure P/1 to the writ petition.
6. Learned Writ Court allowed the writ petition of petitioner and directed the appellants to pay Samman Nidhi to the petitioner, therefore, appellants are before this Court.
7. It is the submission of learned counsel for the appellants that learned Writ Court did not consider the applicability of new rules. According to appellants, prior to 2018 several rules and regulations were operational, therefore, in order to settle all the hue and cry, State Government framed new rules known as Madhya Pradesh Loktantra Senani Samman Niyam, 2018 under Section 10 of Madhya Pradesh Loktantra Senani Samman Adhiniyam, 2018 whereby it has been clarified that prior to enforcement of this rules all the applications disposed of under the Rule of 2008 shall be deemed to be disposed of under this rules also and no fresh decision is required on those applications but it will be applicable

on the pending applications. Therefore, application of the petitioner has to be considered under the rules of 2018 wherein he is required to submit certificate of jail or police station wherever he was detained.

8. It is further submitted that it is general rule of principle that once the words of statute are clear and giving an unambiguous meaning then the Court is required to give the same effect. Reliance has been placed over the judgment of Apex Court in the case of **Nelson Motis Vs. Union of India, AIR 1992 SC 1981**. Learned counsel for the appellants also submits that in writ petition, petitioner did not seek the relief of quashing of order of rejection of Samman Nidhi passed by the District Collector, Gwalior and in absence of such relief, the order Annexure P/1 cannot be quashed.
9. It is further submitted that learned Writ Court did not consider the controversy in correct perspective and ignored the applicability of Rules of 2018 and allowed the writ petition of respondent. Thus, prayed for setting aside the impugned order.
10. Learned counsel for the respondent while supporting the order passed by learned Writ Court, opposed the prayer and submits that since the application of petitioner was pending prior to enforcement of Rules of 2018, therefore, the application of petitioner will be governed by the Rules of 2008 and the amended Rules of 2012. Thus, prayed for dismissal of writ petition.
11. Heard learned counsel for the parties and perused the documents appended thereto.
12. This is a case where appellants are seeking interference in the order passed by learned Writ Court whereby direction has been given to the

appellants to grant Samman Nidhi to the petitioner. In the case in hand, the first and foremost question is fulfilling the criteria/condition to receive the Samman Nidhi which is being given to the persons who remained in custody due to political or social cause under MISA/DIR in the period of Emergency.

13. In the year 2008, State Government framed the rules for the purpose of giving Samman Nidhi to the persons who were taken under custody under MISA/DIR, prescribing the eligibility as under:

“4. मीसा/डी. आई. आर. के अधीन राजनैतिक या सामाजिक कारणों से निरुद्ध रहने संबंधी प्रमाण-पत्र, व्यक्ति जहां निरुद्ध रहा हो, यथा-जेल/पुलिस थाना का प्रमाण-पत्र प्रस्तुत करना होगा, मीसा/डी. आई. आर. के अधीन राजनैतिक या सामाजिक कारणों से निरुद्ध रहने संबंधी जिला मजिस्ट्रेट का प्रमाण-पत्र भी मान्य होगा, जेल की दशा में जेल अधीक्षक, पुलिस थाने की दशा में जिला पुलिस अधीक्षक तथा जिला मजिस्ट्रेट की दशा में संबंधित जिला मजिस्ट्रेट का प्रमाण-पत्र आवेदन के साथ संबंधित जिला मजिस्ट्रेट को प्रस्तुत करना अनिवार्य होगा।”

14. Thereafter, on 04-01-2012, State Government amended the rules of 2008 and relaxed the condition of submission of proof of custody to the extent that if record of custody of person concerned is not available with the authorities concerned, then he can submit affidavits of two prisoners who were in custody under MISA/DIR during the Emergency period, the relevant amended extract reads as under:

“4.1 जहां जेल, पुलिस, थाना तथा जिला मजिस्ट्रेट का निरुद्ध संबंधी शासकीय रिकार्ड उपलब्ध नहीं है केवल उन्हीं प्रकरणों में आवेदक के साथ जेल में निरुद्ध रहे किन्हीं दो मीसा/डी.आई.आर. के अधीन राजनैतिक एवं सामाजिक कारणों से निरुद्ध व्यक्तियों के

शपथ-पत्र/प्रमाणीकरण को मान्यता दी जाएगी, शपथ-पत्र में प्रमाणीकरणकर्ता द्वारा घोषणा की जायेगी कि वे व्यक्तिगत ज्ञान स्मृति के आधार पर यह प्रमाणीकरण कर रहे हैं इस प्रमाणीकरण के असत्य होने के वैधानिक परिणामों से वे अवगत हैं।”

15. Aforesaid amendment in rule 4.1 has been deleted by the State Government vide notification dated 25-09-2017 and by that time application of petitioner was not decided and it was pending and decided only on 04-03-2020 (in connected writ appeal on 11-05-2018), therefore, at the time of deciding the application of the petitioner, rule 4.1 was not in existence. Thus, petitioner cannot claim any benefit from the amended rule 4.1. Thereafter, since several changes have been made in the rules, therefore, in 2018 State Government framed new rules known as Madhya Pradesh Loktantra Senani Samman Niyam, 2018 and rule 7 of the said Rules prescribes the entitlement to receive the Samman Nidhi under the Rules of 2018. Rule 7 of the Rules of 2018 reads as under:

“7. (1) सम्मान राशि प्राप्त करने हेतु, लोकतंत्र सेनानी को राजनैतिक या सामाजिक कारणों से जेल या पुलिस थाने में निरुद्ध रहने के प्रमाण पत्र सहित, प्ररूप 1 में जिला मजिस्ट्रेट को आवेदन प्रस्तुत करना होगा। जेल की दशा में जेल अधीक्षक तथा पुलिस थाने की दशा में जिला पुलिस अधीक्षक का प्रमाण पत्र संलग्न करना अनिवार्य होगा।

(2) आवेदक यदि शारीरिक या आर्थिक विपन्नता के कारण दस्तावेज प्राप्त करने में समर्थ न हो तो उसके निवेदन पर दस्तावेज प्राप्त करने में जिला मजिस्ट्रेट आवश्यक सहयोग कर सकेगा।

(3) यदि जेल में निरुद्ध होने या जेल से छूटने का कोई अभिलेख उपलब्ध है और जेल अधीक्षक प्रमाणित करता है कि शेष सुसंगत

अभिलेख उपलब्ध नहीं है तो निरुद्ध रहने की न्यूनतम अवधि मानकर सम्मान राशि स्वीकृत की जाएगी।

(4) दिवंगत लोकतंत्र सेनानी के पति/पत्नी को उनकी सम्मान राशि की स्वीकृति के लिए मात्र सूचना देनी होगी। उन्हें प्ररूप 1 में आवेदन देने की आवश्यकता नहीं होगी।”

16. So far as applicability of the Rules of 2018 is concerned, rule 16 of the said rules clearly prescribes that all the applications disposed of under the Rule of 2008 shall be deemed to be disposed of under this rules also and they are not required to move fresh application under this rules but it will be applicable on the pending applications. Rule 16 of the Rules of 2018 reads as under:

“16. पूर्व में लोकनायक जयप्रकाशनारायण (मीसा/डी.आई.आर. राजनैतिक या सामाजिक कारणों से निरुद्ध व्यक्ति) सम्मान निधि नियम, 2008 के अंतर्गत निराकृत प्रकरण इन नियमों के अंतर्गत निराकृत माने जाएंगे। ऐसे व्यक्तियों को नए सिरे से आवेदन प्रस्तुत करने की आवश्यकता नहीं होगी:

परन्तु जो आवेदन विचाराधीन हैं, उन्हें इन नियमों के अंतर्गत निराकृत किया जाएगा।”

From perusal of this rule, it appears that since application of petitioner was not decided prior to enactment of this rules, therefore, now it is to be decided under the rules of 2018 and petitioner has to produce the desired document to receive the Samman Nidhi.

17. If the rules of 2008 are perused, then it would be clear that these rules have been framed in order to give pensionary honour to those persons who remained in custody during the period of Emergency due to political or social cause. The rules clearly prescribes that if a person remained in custody for less than one month then he will be given

Samman Nidhi of Rs.8,000/- and if he remained in custody for more than one month, then he will be given Samman Nidhi of Rs.25,000/-. It is also worth mentioning that wife of the prisoner is entitled to half of the Samman Nidhi.

18. If all the rules i.e. Rules of 2008, Amended Rules of 2012 and 2017 are placed in juxtaposition, then it is clear that the time when application of petitioner was decided at that time, rule 4.1 of submitting two affidavits of MISA detainees was not existing and it was eclipsed and soon thereafter State Government enacted new Rules of 2018 wherein the prerequisite has been fixed as of submitting certificates from Jailor or Superintendent of Police in relation to incarceration of petitioner. Thus, the application of petitioner is required to be considered under the Rules of 2018 wherein he is required to produce the certificate either from Jailor or from the concerned Superintendent of Police.
19. So far as applicability of rules of 2018 is concerned since the rules itself provides its applicability, therefore, according to general principles of interpretation, once the statute itself provides its retrospective application and it is clear and unambiguous, then the Court is not required to rewrite the statute and interpret otherwise. The Apex Court in the case of **Nathi Devi Vs. Radha Devi Gupta, (2005) 2 SCC 271** held in relation to interpretation of rules. Para 13,14, 15 and 17 reads as under:

“13. The interpretative function of the Court is to discover the true legislative intent. It is trite that in interpreting a statute the Court must, if the words are clear, plain, unambiguous and reasonably susceptible to only one meaning, give to the words that meaning, irrespective of the

consequences. Those words must be expounded in their natural and ordinary sense. When a language is plain and unambiguous and admits of only one meaning no question of construction of statute arises, for the Act speaks for itself. Courts are not concerned with the policy involved or that the results are injurious or otherwise, which may follow from giving effect to the language used. If the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In considering whether there is ambiguity, the Court must look at the statute as a whole and consider the appropriateness of the meaning in a particular context avoiding absurdity and inconsistencies or unreasonableness which may render the statute unconstitutional.

14. It is equally well settled that in interpreting a statute, effort should be made to give effect to each and every word used by the Legislature. The Courts always presume that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect. A construction which attributes redundancy to the legislature will not be accepted except for compelling reasons such as obvious drafting errors. (See [State of U.P. and others vs. Vijay Anand Maharaj](#): AIR 1963 SC 946; [Rananjaya Singh vs. Baijnath Singh and others](#): AIR 1954 SC 749; [Kanai Lal Sur vs. Paramnidhi Sadhukhan](#): AIR 1957 SC 907; [Nyadar Singh vs. Union of India and others](#): AIR

1988 SC 1979; *J.K. Cotton Spinning and Weaving Mills Co. Ltd. vs. State of U.P.*: AIR 1961 S.C. 1170 and *Ghanshyam Das vs. Regional Assistant Commissioner, Sales Tax* : AIR 1964 S.C. 766).

15. *It is well settled that literal interpretation should be given to a statute if the same does not lead to an absurdity.*

17. *Even if there exists some ambiguity in the language or the same is capable of two interpretations, it is trite the interpretation which serves the object and purport of the Act must be given effect to. In such a case the doctrine of purposive construction should be adopted. {See: *Swedish Match AB and another vs. Securities & Exchange Board, India and another*: 2004 (7) Scale 158.}*”

20. Since at the time of deciding the application of petitioner, rule 4.1 was not in existence and at the time of deciding the writ petition, Rules of 2018 was in existence, therefore, learned Writ Court was required to take into consideration the provisions of the Rules of 2018. Learned Writ Court passed the order impugned without going through the provisions of Rules of 2018 thus, not sustainable.
21. Petitioner did not challenge quashment of order of rejection of Samman Nidhi vide Annexure P/1. He was required to challenge the same.
22. In the conspectus of facts and circumstances of the case, petitioner is not entitled to get Samman Nidhi on the basis of affidavits of two jail inmates (who were detained under MISA/DIR), a method available for the person like petitioner prior to 25-09-2017. Now if

petitioner wants to assert her claim, then she will have to proceed as per the conditions stipulated in the Rules of 2018 and would have to submit the requisite documents before the respondents, then only she will be entitled to claim Samman Nidhi.

23. In view of the above discussion, this Court is of the considered view that learned Writ Court committed error in passing the impugned order by not taking into consideration the Rules of 2018, hence, the appeal preferred by the appellants/State is hereby allowed and the order passed by learned Writ Court is hereby set aside.
24. Both the Writ Appeals (Writ Appeal No.803/2024 and Writ Appeal No.23/2025) **stand allowed**. Copy of this order be kept in Writ Appeal No.23/2025.

Anil*

(ANAND PATHAK)
JUDGE

(PUSHPENDRA YADAV)
JUDGE