

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 5th OF AUGUST, 2024

WRIT PETITION No. 21570 of 2024

*THE NAGAR PARISHAD PICHHORE DISTRICT SHIVPURI (M.P.)
THROUGH ITS PRESIDENT SMT. KAVITA VIKAS AND OTHERS*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

*Shri M.P.S. Raghuvanshi - learned Senior Advocate assisted by Shri Prateek
Dhakad - Advocate for the petitioners.*

Shri Vivek Khedkar - Additional Advocate General for the respondents-State.
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ORDER

Shri Anand Sharma - Chief Municipal Officer, Nagar Parishad
Picchore, District-Shivpuri is present in person.

1. The present petition is preferred at the instance of Nagar Parishad
Picchore, District-Shivpuri through its President as well petitioner No.2 who
happens to be the president of the Municipal Council taking exception to the
order dated 24-07-2024 (Annexure P-1) passed by the Sub Divisional
Magistrate, Pargana Picchore, District-Shivpuri whereby permission has
been granted to Dr. Bheemrao Ambedkar Shiksha Prasar Samiti, District-
Shivpuri/ respondent No.5 to convene the Fair. This is the bone of
contention for the petitioners.

2. It is the submission of learned Senior counsel that as per Section
124(bb) of the M.P. Municipalities Act, 1961, permission can be given to
convene the fair by the Municipal Council and not by the Sub Divisional

Magistrate. In the present case, the Sub Divisional Magistrate has granted permission which is arbitrary and illegal. It is further submitted that without taking permission from the petitioners and/ or President in Council, the CMO on his own managed the file on which SDM, Pichhore has granted permission to respondent No.5 to convene the fair, the same is not permissible in the eyes of law. He further submits that no bid has been invited prior to giving permission to respondent No.5 which causes financial loss to the Municipal Council otherwise Municipal Council could have fetched some money from the fair for sustenance of the Council.

3. Learned counsel for the respondents/ State opposed the prayer and on the basis of instructions received and reply filed, submits that the Municipal Council has no right or authority to prefer the present petition, it can only be preferred through CMO. So far as financial loss to the Council is concerned, it is explained that last year, the Municipal Council given permission to one society in which around Rs.10 lacs were invested by the Municipal Council to convene the Fair but suffered loss because only Rs.1 lac was recovered from that Fair. Now pattern has been changed in which all money has to be invested by the Samiti and Municipal Council does not have to invest any money for infrastructure and other facility of the Fair. He however submits that the CMO was competent to pass the order. Even respondents were ready to convene the meeting of the members of the Council also but since petitioner No.2 as President did not cooperate and did not call the meeting therefore, CMO exercising his power and proceeded. They are ready to convene the meeting of the Council.

4. Heard.

5. In the present case, petitioner No.1 is the Nagar Parishad, Pichhore and petitioner No.2 is its president. Both petitioners appear to be allegedly marginalized by the action/ omission of other authorities and grievance of the petitioners is that the CMO on his own permitted respondent No.5/ Society to hold the Fair. Since respondents agree over the proposal that they are ready to hold special meeting of the Council looking to the dispute arose provided President of the Council (present petitioners) support and immediately convene the special meeting so that all members of the Council may join and decide the fate of the Fair. Therefore, it is imperative that special meeting of the Council be held preferably on 09-08-2024 (giving 03 days prior intimation to the members of the Council) and on 09-08-2024, the Council shall discuss and decide the fate of the fair keeping in view the financial and other interest of the Council as top priority because local bodies already suffered from financial crunches and the Council and its members must remind themselves that they are custodian of the public faith and fund of the residents living in the vicinity to whom they represent. Therefore, keeping the public welfare in mind council shall discuss and decide the fate of the fair with best terms and conditions for the Council.

6 . Needless to say that any decision taken by the Council shall be intimated to all the authorities concerned and the order dated 24-07-2024 (Annexure P-1) passed by the Sub Divisional Magistrate, Pargarna, Pichhore District-Shivpuri shall be subject to final outcome of the decision of the Council.

7. Petition stands *disposed of* accordingly.

Certified copy today.

(ANAND PATHAK)
JUDGE

v

