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WP-5506-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ASHISH SHROTI

ON THE 25th OF AUGUST, 2025

WRIT PETITION No. 5506 of 2024

BIRMANI SINGH TOMAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WITH

WRIT PETITION No. 18410 of 2020

SUBHASH ATRE

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 7121 of 2022

LAKHANLAL KAROTHIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 18506 of 2022



SMT. HEMLATA CHOUDHARY

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.
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WRIT PETITION No. 9988 of 2023

CHANDRA SHEKHAR TRIPATHI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.
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WRIT PETITION No. 13277 of 2023

KHALID RIZVI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.
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WRIT PETITION No. 13406 of 2023

SMT MANJU KUSHWAHA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.
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WRIT PETITION No. 14573 of 2023*MOHAN KUMAR GHANGHORIYA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 14809 of 2023*SMT HEMLATA SIKARWAR**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 14811 of 2023*SMT INDRA RAWAT**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 17780 of 2023*SMT. SARITA SHRIVASTAVA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.



Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 22934 of 2023

SMT. RAMLALI DEVI JADON

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 23659 of 2023

RAM SAHAY VERMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 24840 of 2023

MAHABIR SINGH RAWAT

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 24841 of 2023

SMT MANJULA JOSHI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 27250 of 2023

PRADEEP KUMAR SHRIVASTAV

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 29050 of 2023

RAMAVTAR SINGH BHADORIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 29589 of 2023

SMT. MEERA YADAV

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 29968 of 2023

SONERAM DHAKAD



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WP-5506-2024

*Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 29969 of 2023***PURAN SINGH KUSHWAHA****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 29970 of 2023***MANIK CHAND JAIN****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 30383 of 2023***JAI KUMAR CHANDRA****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 30728 of 2023*SMT. SHASHIKALA KUSHWAHA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 31280 of 2023*SMT. YOGESHWARI SHIVHARE**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 31283 of 2023*KOSHLENDRA SINGH PARIHAR**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 31838 of 2023*SMT. SNEHALATA UPDADHYAY**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.



Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 852 of 2024

SMT USHA AGRAWAL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 2504 of 2024

SMT. HEMLATA CHOUDHARY

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 3049 of 2024

DEEN DAYAL GUPTA (DD GUPTA)

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri S.P. Jain - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 3088 of 2024

SMT RITU THAKUR

Versus



THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 3999 of 2024

RAJENDRA SINGH RAJORIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Devesh Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 4536 of 2024

VINOD KUMAR SHUKLA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 4911 of 2024

RAM PRAKASH GOYAL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.



WRIT PETITION No. 5293 of 2024

SHUBHA LAXMI SITHOLEY

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 7000 of 2024

KAPTAN SINGH AJMERIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 7533 of 2024

SMT PUSHPA SHARMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 7606 of 2024

DILEEP MATHUR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.



Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 7612 of 2024

MOHAN LAL SAXENA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 7613 of 2024

MAHENDRA KUMAR DOGRA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 7958 of 2024

PRAFULL KUMAR TIWARI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

.....
WRIT PETITION No. 8288 of 2024

BRAJESH KUARM MISHRA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS
.....

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 8390 of 2024

MAZHAR ALI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 8391 of 2024

MAHESH SINGH BHADAURIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 8803 of 2024

ASHOK KUMAR BANORIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 8805 of 2024

RAMSEVAK SINGH CHAUHAN



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*Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 8806 of 2024***SMT. MALTI JADON****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 8895 of 2024***RAJ BAHADUR THAPA****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 9392 of 2024***MATA PRASAD****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.



WRIT PETITION No. 9627 of 2024

KU SWARNLATA MISHRA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.
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WRIT PETITION No. 10866 of 2024

ABIDA KHANAM

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.
.....

WRIT PETITION No. 10867 of 2024

YUSUF KHAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.
.....

WRIT PETITION No. 11570 of 2024

DEEPAK SHARMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.



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Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 13055 of 2024

ROOP KISHORE PATHAK

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 15897 of 2024

MAHESH SINGH TOMAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 15905 of 2024

SMT ROOPA CHAUHAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 17762 of 2024

SMT. KAMLA PARASHAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 17768 of 2024

ARUN KUMAR SHARMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 20353 of 2024

RAJARAM SHAKYAWAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 21403 of 2024

RAM KUMAR PATHAK

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 23189 of 2024

RAM KUMAR DWIVEDI



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*Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 25399 of 2024***SURENDRA SINGH PARMAR****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 25403 of 2024***RAJENDAR KUMAR SWARNKAR****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 25969 of 2024***SMT. KRISHNA DEVI BHADORIYA****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.



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WRIT PETITION No. 26960 of 2024*CHANDRA SHEKHAR TRIPATHI**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 30948 of 2024*SULTAN KHAN**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Alok Kumar Sharma - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 34522 of 2024*DINESH KUMAR BATHAM**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

WRIT PETITION No. 34941 of 2024*SMT. SUNITA SUNDRYAL**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.



Shri Jitesh Sharma - Government Advocate for the respondents/State.

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WRIT PETITION No. 41185 of 2024

SMT. GUDDI DEVI YADAV

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Shashank Indapurkar - Advocate for the petitioner.

Shri Jitesh Sharma - Government Advocate for the respondents/State.

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ORDER

1. The petitioners in this batch of writ petitions are the employees of Home Department belonging to the Ministerial Cadre. They are aggrieved by the action of the respondents in recovering the excess amount together with interest from each of them on account of certain emoluments paid erroneously to them.

2. The facts necessary for decision of this case are that the State Government created a new Police Rank (Ministerials) in the State Police Force under Section 2 of Police Act, 1961. The ministerial employees though equated with Executive posts, were held not entitled to continue to draw emoluments in their existing pay scales as may be revised from time to time. This gave rise to litigation initially filed before the erstwhile State Administrative Tribunal. The Tribunal issued direction to extend Rs.70/- as ad-hoc increase to these ministerial employees w.e.f.01/04/1981. The matter ultimately travelled up to the Apex Court and was decided in the case of **S.H. Baig and others Vs. State of M.P. and others** reported in (2018) 10 SCC 621. It was held that the employees in Ministerial Cadre were not entitled to ad-



hoc increase as was directed by the Tribunal. Consequently, the respondents took the action to re-fix the salary of the ministerial employees which has resulted into the impugned recovery. It be noted that by the time the impugned recovery orders were passed, many of the employees retired from service on attaining the age of superannuation.

3. Learned counsel for the petitioners in this bunch of writ petitions, at the outset, submitted that the issue involved in this case is no more *res-integra* and the Division Bench of this Court at Principal Seat in the case of **State of M.P. and others Vs. Ramrao Bhimte in W.A No.1657/2025** has dealt with the similar issue and has quashed the recovery initiated against the similarly situated employees. In paragraph 17 and 18, the Division Bench held as under:-

"17. In view of the above discussion, we found no infirmity in the order passed by learned Single Judge. The impugned order has been passed after considering the judgment delivered by the Full Bench in the matter of Jagdish Prasad Dubey (supra), wherein the judgment delivered by Supreme Court in the matter of Rafiq Masih (supra) was relied on. We are in agreement with the findings recorded by learned Single Judge that the recovery from the respondent after retirement was not permissible.

18. In our view, the judgment delivered by the Supreme Court in the matter of Rafiq Masih (supra) is squarely applicable to the case in hand irrespective to the fact that respondent was employee of Ministerial cadre of M.P. State Police. The Supreme Court has held that no recovery is permissible from a retired employee of Class III or Class IV, if any amount is paid to him erroneously during this service period. In the matter in hand, respondent was superannuated on 30.06.2017, whereas recovery order was issued



after a period of seven years on 26.09.2024, which cannot be given a seal of approval."

4. The aforesaid order is followed by the Division Bench at Gwalior in the case of **State of M.P. and others Vs. Sanjay Naithani and others in W.A. No.1765/2025**.

5. Learned counsel for the respondents could not dispute the law laid down by the Division Benches in the aforesaid two cases. However, he submits that in some of the writ petitions, the writ petitioners are not yet retired and are still in service and, therefore, the order passed by the Division Bench, which relates to the retired employees, may not apply in the case of employees who are still in service.

6. Considered the arguments of learned Government Advocate for the State.

7. In this batch of writ petitions, the petitioners can be divided into three categories namely retired employees, legal heirs of the employee and employees still in service. So far as the retired employees and the legal heirs of employees are concerned, there is no dispute and they would be governed by the Division Bench judgment passed in the case of **Sanjay Naithani (supra)**. Legal position with regard to third category viz. the employees who are still in service needs to be examined.

8. The Apex Court in the case of **State of Punjab and others Vs. Rafiq Masih (White Washer)** reported in 2015 (4) SCC 334 held in para 18 as under:-

"18. It is not possible to postulate all situations of hardship which



would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).
- (ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.
- (iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- (v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

9. In view of the directions of the Apex Court contained in Clause (i) and (iii), the recovery from the employees who are still in service is also impermissible.

10. In view of the aforesaid, this Court is of the considered view that the action of the respondents in recovering the excess amount that too together with interest, is not permissible in the view of the Division Bench judgments passed in the case of **Ramrao Bhimte (supra)** and **Sanjay Naithani (supra)**. Accordingly, the recovery in each of these cases are quashed. In



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case the amount is already recovered from the petitioner(s), the same be refunded to them with interest at the rate of 6% from the date of retirement till actual payment.

11. With the aforesaid, these writ petitions are disposed off.

(ASHISH SHROTI)
JUDGE

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