



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

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 16th OF OCTOBER, 2024

WRIT PETITION No. 11958 of 2018

SANJAY NIHALE

Versus

DIRECTORATE OF PANCHAYAT AND OTHERS

Appearance:

Shri Rishiraj Trivedi, Advocate for the petitioner.

Ms. Bhagyashree Gupta- G.A. for the State.

ORDER

Heard.

2] This petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking the following reliefs:-

“1. That this Hon'ble Court may be pleased to pass an appropriate Writ, order or direction and quash the suspension order dated 05/04/2018 (**Annexure P/4**) issued by respondent no. 3 and Termination order dated 01/05/2018 (**Annexure P/ 5**) issued by respondent no. 2, to meet the ends of justice.

2. Any other relief which the Hon'ble Court deems fit in the facts and circumstances of the case.”

3] The petitioner is aggrieved by the order dated 01.05.2018, passed by the respondent No.2, Collector, Barwani, District Barwani whereby, the services of the petitioner, who was posted as Panchayat Secretary has been terminated on the ground of misconduct, as it was alleged that the petitioner obtained various amounts from persons under the P.M. *Avas Yojana*.



4] Counsel for the petitioner, at the outset, has submitted that this Court while passing the interim order in favour of the petitioner on 25.07.2018, has already observed that the impugned order dated 01.05.2018 has been passed by the Collector without any jurisdiction, as according to Sub-Rule 4 and 5 of Rule 7 of the Madhya Pradesh Panchayat Service (Gram Panchayat Secretary Recruitment and Conditions of Service) Rules, 2011 (hereinafter referred to as the 'Rules of 2011'), the jurisdiction vests with the CEO, Zila Panchayat and its appeal is maintainable before the Commissioner. Thus, it is submitted that the Collector had no jurisdiction to take the aforesaid action against the petitioner and on this ground only, the petition is liable to be allowed.

5] Counsel for the respondent/State, on the other hand, again submits that the reply could not be filed as the matter has been listed after many years, although, on the last date of hearing i.e., on 18.09.2024 the matter was adjourned as a last indulgence to file reply by the State.

6] Be that as it may, considering the fact that the order has been passed by the Collector without jurisdiction, which is clearly in violation of Sub-Rule 4 and 5 of Rule 7, which reads as under:-

“4 The Chief Executive Officer of Zila Panchayat shall be the competent authority for taking disciplinary action. The appeal may be filed before the Commissioner, Panchayat Raj Sanchalnalaya within 15 days from the date of order of imposing punishment.

5 For the purpose of taking disciplinary action, the following conditions shall be followed by the Competent Authority.

(a) Principles of natural Justice for hearing shall be applicable,

(b) The certified proof shall be shown to the concerned Secretary of Gram Panchayat;

(c) All proceedings shall have to be completed within two months from the date of issuing the notice under sub-rule (2) above.”

(Emphasis Supplied)



7] In view of the same, it is apparent that the Collector has exceeded his jurisdiction in passing the impugned order. Thus, the order dated 01.05.2018, being without jurisdiction is hereby quashed.

8] However, with liberty as already extended by this Court in the interim order dated 25.07.2018, that the respondents shall be free to proceed in accordance with Sub-Rule 4 and 5 of Rule 7.

9] With the aforesaid directions, the petition stands *allowed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE