



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

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 10th OF SEPTEMBER, 2024

WRIT PETITION No. 27765 of 2022

GOPAL SINGH WASKEL

Versus

***THE STATE OF MADHYA PRADESH PANCHAYAT AND RURAL
DEVELOPMENT AND OTHERS***

Appearance:

Shri Anirudh Saxena - advocate for the petitioner.

Shri Pranay Joshi, appearing on behalf of Advocate General.

ORDER

1] This writ petition has been filed by the petitioner/an Ex-Block Coordinator under Article 226 of the Constitution of India against the order dated 27/09/2022 passed by the Commissioner (Revenue), Indore Division in an appeal arising out of the order passed by CEO, Zilla Panchayat, Alirajpur on 06/02/2020, whereby the services of the petitioner have been terminated on account of his dereliction of duties.

2] In brief, the facts of the case are that the petitioner was appointed on the said post on Block Coordinator in the year 2010, initially for a period of one year, and subsequently, his employment was extended from time to time, and subsequently the State Government also came out with a guideline in respect of contractual



employees on 05/06/2018.

3] The case of the petitioner is that he was served with a show cause notice on 08/11/2019, a reply to which was filed by the petitioner on 11/11/2019, however, he was again served show cause notice on 28/12/2019, which was also replied to on 06/01/2020, however, the services of the petitioner were terminated vide order dated 06/02/2020, by the respondent No.4 CEO, Zilla Panchayat, and in an appeal, the same has been affirmed by the Commissioner, Indore. Hence this petition.

4] Counsel for the petitioner has submitted that the impugned order dated 06/02/2020 is purely a stigmatic order as various allegations have been levelled against the petitioner including that he was absent from duty without leave, and also that he did not perform his work as required. Counsel has also submitted that of both the show cause notices earlier issued to the petitioner, satisfactory replies were submitted by the petitioner, however, the same were not taken into account, and in fact, in an appeal against the order dated 06/02/2020, it has been observed that the reply was not satisfactory, and also that in respect of his absence from duty, there is no reply filed by him. Thus, it is submitted that the impugned order being bad in law and on facts, deserves to be set aside, and the petitioner deserves to be reinstated.

5] In support of his submissions, counsel has also drawn the attention of this Court to a recent decision rendered by the Supreme Court in the case of *Swati Priyadarshini vs. State of M.P. and others passed in Civil Appeal No.9758 of 2024 dated 22/08/2024*, in which



also, the services of the petitioner which were contractual, were terminated and the Division Bench set aside the order passed by the Single Bench affirming the termination of the employee, however, the Supreme Court has reversed the order passed by the Division Bench holding that in the absence of an enquiry, a stigmatic order cannot be sustained.

6] Counsel for the respondents, on the other hand has opposed the prayer and it is submitted that no illegality has been committed by the respondents in terminating the services of the petitioner who was not only not performing his duties as was expected but was also in the habit of absenting himself without leave. It is submitted that the notice regarding his absence from work from 24/12/2019 to 27/12/2019 was also served on him, however he has explained his absence only for 27/12/2019, and not of earlier two days. Thus, it is submitted that the petition being devoid of merits is liable to be dismissed.

7] In rebuttal, counsel for the petitioner has submitted that although there is no specific reply filed by the petitioner in respect of his absence from 24/12/2019 to 27/12/2019, but in the memo of appeal which was filed against the impugned order dated 06/02/2020, he has explained his non-appearance of 24/12/2019 to 27/12/2019, however, the same has not been taken into account by the appellate authority.

8] Heard learned counsel for the parties and perused the documents filed on record.

9] From the record, it is found that admittedly the order is



stigmatic, as dereliction of duty has been alleged against the petitioner, and in such circumstances, the services of the petitioner ought not to have been done away without any proper inquiry, whereas, the order has been passed on the basis of an opinion given by the Chief Executive Officer, Zilla Panchayat, Alirajpur. In such circumstances, taking into account the order passed by the Supreme Court in the case of *Swati Priyadarshini* (supra), the impugned orders dated 06/02/2020 and 27/09/2022, cannot be sustained and are hereby set aside with a direction to the respondents to reinstate the petitioner within a period of six weeks from the date of receipt of certified copy of this order, without any consequential benefits as it is also alleged that the petitioner remained absent from work without leave and has also not replied to the aforesaid fact in the original show cause notice.

10] However, a liberty reserved to the respondents that if advised, they may further proceed against the petitioner, in accordance with law.

11] Accordingly, petition stands *allowed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE

krjoshi