



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

BEFORE

**HON'BLE SHRI JUSTICE VIVEK RUSIA
&
HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI**

ON THE 30TH OF JUNE, 2025

WRIT APPEAL No. 181 of 2024

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

Appearance:

*Shri Sudeep Bhargava – Dy. A.G. for the appellants/State.
Shri L.C. Patne – Advocate for respondent No.1.*

RESERVED ON	:	26.06.2025
PRONOUNCED ON	:	30.06.2025

ORDER

Per: Justice Vivek Rusia

Heard finally with the consent of both the parties.

The present writ appeal is filed under Section 2(1) of M.P. Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005, against the order dated 21.11.2023, whereby W.P. No.16689/2023 has been allowed by quashing the transfer order dated 07.07.2023 passed by C.E.O. Zila Panchayat, Indore, whereby the writ petitioner has been transferred from Gram Panchayat, Rangwasa, Janpad Panchayat, Indore to Gram Panchayat, Jafarabad, Janpad Panchayat, Mhow.



The facts of the case, in short, are as follows:

02. The respondent No.1/writ petitioner was appointed and working as Panchayat Secretary and his services are governed under the M.P. Panchayat Services (Gram Panchayat Secretary Recruitment and Conditions of Service) Rules, 2011 (hereinafter referred to as “2011 Rules”). Vide impugned order dated 07.07.2023 issued by C.E.O, Zila Panchayat, Indore, he has been transferred from Gram Panchayat, Rangwasa, Janpad Panchayat, Indore to Gram Panchayat, Jafarabad, Janpad Panchayat, Mhow on administrative ground. The writ petitioner rushed to this Court challenging the transfer order by placing reliance on a judgment in the case of ***Rakesh Kumar Shakya vs. State of M.P. and another*** reported in ***2010 (1) MPLJ 656*** and also on the ground that he has been transferred to accommodate respondent No.4 Naresh Dubey. The writ petitioner submitted a representation describing that due to family reasons he is unable to join the transfer place which is 90 km away from his house hence, the transfer order be cancelled.

03. The writ petitioner raised a ground in the writ petition that the respondent No.3 has issued the transfer order without jurisdiction as much as the proposal of transfer was not brought before the General Administrative Committee of the Zila Panchayat, Dewas in accordance with the procedure laid down in the act or rules made thereunder, as made mandate under Rule 15(j) of the M.P. Jila Panchayat (Business) Rules 1998 (hereinafter referred to as “Rules of 1998”). Since the matter was not placed before the GAC, therefore, there is no such resolution for transfer of the writ petitioner.



04. The respondents No.1, 2 and 3 filed the reply by submitting that the writ petitioner has been continuing at the present place of posting since last nine years, therefore, as per the transfer policy he has rightly been rightly transferred. The respondent No.4 has also filed the reply by submitting that in compliance of the same transfer order he has given his joining on 17.07.2023 and same has been accepted by Sarpanch. Thereafter, the writ petitioner also filed the rejoinder alongwith the Business Allocation Rules. The State Government filed the additional return alongwith the Rules of 2011.

05. After hearing learned counsel for the parties, the writ Court has held that Rule 15(j) of the Rules of 1998 “*All cases including transfers and posting of the employees under the control and jurisdiction of Zila Panchayat shall be brought for decision before the General Administration Committee in accordance with the procedure laid down in the Act or the rules made thereunder*”. Since the Jila Panchayat has not given any direction to the GAC, the transfer is bad in law and accordingly set aside the order. Hence, the present writ appeal before this Court.

Submission of appellants/State counsel.

06. Shri Sudeep Bhargava, learned Dy. A.G. for the appellants/State submits that the respondent has been transferred within the district as the post of secretary is district cadre post under the Rules of 2011. The service conditions of the respondent are governed under Rules of 2011. The services of secretaries are not governed under the M.P. Jila Panchayat (Business) Rules 1998 which has wrongly been applied in the present case.



Submission of respondent's counsel

07. *Per contra*, Shri Patne, learned counsel appearing for the writ petitioner submits that no interference is liable to be made as the writ Court has passed the very reasoned order. The provision of transfer in Rules of 2011 is only an enabling provision and procedure for transfer is provided under the Business Allocation Rules, 1998. Hence, no interference is called for and the present writ appeal be dismissed.

08. In support of his contention, Shri Patne placed has reliance on a judgment passed by the Apex Court in the cases of ***MRF Limited vs. Manohar Parrikar and others*** reported in (2010) 11 SCC 374, and ***Dr. Rajinder Singh vs. State of Punjab and other*** reported in (2001) 5 SCC 482 and the judgment passed by the Division Bench of this Court in the case of ***Gram Panchayat, Jhadel vs. State of Madhya Pradesh and others*** reported in (2012) 11 MP CK 0073.

Appreciation and conclusion

09. In exercise of the powers conferred by sub-section (1) of Section 95 read with sub-section (1) of Section 69 of the Madhya Pradesh Raj Avam Gram Swaraj Adhiniyam, 1993, the State Government made a rules called the M.P. Panchayat Services (Gram Panchayat Secretary Recruitment and Conditions of Service) Rules, 2011. As per Rule 2, these rules shall be applicable to the sanctioned posts of Gram Panchayat Secretary of the Gram Panchayats. As per Rule 3(1-b) with respect to Gram Panchayat Secretary means the C.E.O. Zila Panchayat shall be an appointing authority, who is appointed by the



C.E.O. Zila Panchayat in the Gram Panchayat coming under its control as per Section 3(1-d). As per Rule 5(1) “There shall be a cadre of Gram Panchayat Secretary in each district and the absorption, selection and appointment of Gram Panchayat Secretary shall be made at the district level. Therefore, the post of Panchayat Secretary is not transferable out of district and the competent authority is the C.E.O., Zila Panchayat.

10. So far as the transfer of the Panchayat Secretary is concerned which is a subject matter of this case, there is a provision in sub-rule (7) of Rule 6 which is reproduced below:-

“(7) The Gram Panchayat Secretary may be transferred on administrative ground or on the basis of his application within the district in accordance with the transfer policy issued by the Commissioner Panchayat Raj. The Gram Panchayat Secretary may be transferred, if necessary, after proper enquiry of the complaints on the recommendation of the Chief Executive Officer, Janpad Panchayat”.

11. It is clear from the aforesaid rule that the Gram Panchayat Secretary may be transferred on administrative ground or on an application within district in accordance with the transfer policy issued by the Commissioner, Panchayat Raj. The Gram Panchayat Secretary is also liable to be transferred after the proper enquiry of the complaint on the recommendation of C.E.O. Janpad Panchayat, therefore, the Gram Panchayat Secretary may be transferred on three conditions, firstly on administrative ground, secondly on his application in accordance with transfer policy and thirdly on a recommendation of C.E.O. Janpad Panchayat after proper enquiry of the complaints against him. There is no such reference of procedure to be followed under Zila Panchayat Business Rules. The Zila Panchayat Business Rules, 1998 were framed by the State Government to consider the cases brought before the GAC



under Rule 3 of the Rules 1998. The category of cases are:-

- (i) As per direction of the Zila Panchayat, or
- (ii) Referred by the other Standing Committees; or
- (iii) As per directions of the Central Government or State Government or Prescribed Authority.

12. Rule 15 deals with the category of cases which shall be brought for decision before the General Administration Committee. According to Rule 15(j) “All cases including transfers and posting of the employees under the control and jurisdiction of Zila Panchayat should be brought before the GAC. These Business Rules are framed for Zila Panchayat not for Janpad Panchayat or Gram Panchayat. As per (j) all cases including transfers and posting of the employees under the control and jurisdiction of Zila Panchayat are liable to be governed. These Business Rules were framed in the year 1998 when there were no rules regarding recruitment, service conditions and disciplinary action for members of the panchayat services. For panchayat services, (Gram Panchayat Secretary Recruitment and Conditions of Service) Rules were framed in the year 2011 and Panchayat Service (Recruitment and General Conditions of Services) Rules were framed in the year 1999. Likewise other rules relating to the service conditions were framed after 1998. Therefore, for other categories of employees like Samvida Shala Shikshak, Veterinary Services, Woman and Child Development Service, Kala Karmi, Non-ministerial Class-IV employees etc. Once the rules have been framed in respect of Panchayat Secretary their recruitment and condition of service then the Business Rules 1998 are not liable to be followed.

13. For the purpose of transfer the provision of Rule 6(7) will



apply. The procedure as prescribed in the transfer policy will be followed, therefore, the C.E.O. Zila Panchayat being an appointing and disciplinary authority is competent to transfer the secretary from one Gram Panchayat to another Gram Panchayat and for that the State Government has framed the transfer policy dated 29.03.2011.

14. In view of above, impugned order dated 21.11.2023 is hereby *set aside* so far as it relates to W.P. No.16689/2023. Consequently, W.P. No.16689/2023 is hereby dismissed.

15. With the aforesaid, present writ appeal stands allowed. No order as to costs.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE