



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

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 22<sup>nd</sup> OF APRIL, 2025**

**WRIT PETITION No. 18081 of 2024**

***DEVENDRA SINGH SHKATAWAT***

*Versus*

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

**Appearance:**

Shri Prasanna R. Bhatnagar - advocate for the petitioner.

Dr. Amit Bhatia -Govt. Advocate appearing on behalf of Advocate General.

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**ORDER**

1] This petition has been filed by the petitioner, a Police Constable under Article 226 of the Constitution of India, against the order dated 26.5.2023 (Annexure P/1), passed by the respondent No.4/Superintendent of Police, Mandsaur whereby, the petitioner has been dismissed from the services on account of misconduct. The appeal against the aforesaid order has also been dismissed by the respondent No. 3/Deputy Inspector General of Police vide order dated 29.09.2023 (Annexure P/2); whereas his mercy petition has also been dismissed on 17.05.2024 (Annexure P/3) by the respondent no.4/ Director General of Police.

2] In brief, the facts of the case are that at the relevant time, the



petitioner was posted as a Constable at police station Narayangarh, District-Mandsaur, where a case at crime No.149/2023 for offence under Sections 420, 467, 468, 471, 379 and 102 of the IPC was registered against one Rahul Singh, wherein it was alleged that when the said accused was caught by the police, the petitioner pressurized the police personnel who had apprehended the said accused to release him and the vehicle, on the pretext that the accused was a driver of Dial 100 vehicle of the same police station.

3] The petitioner was suspended from the services on 28.04.2023, and a preliminary enquiry was also conducted and SDOP, Malhargarh who submitted the enquiry report on 16.5.2023, and on the same date i.e. on 16.05.2023, the petitioner was dismissed from the services without issuing any notice, while invoking the provisions of Article 311 (2) (b) of the Constitution of India. Against the aforesaid order, the appeal and the mercy appeal were also preferred by the petitioner, but the same have also been dismissed as aforesaid. Hence, the present petition.

4] Counsel for the petitioner has drawn the attention of this Court to the impugned order dated 26.05.2023 (Annexure P/1) wherein, no satisfaction has been recorded by the concerned officer as to why the departmental enquiry would not be practicable in the present case. Counsel has also submitted that even in the preliminary enquiry, the petitioner was never heard, and only on the basis of certain statements of the witnesses, the aforesaid order has been passed. It is



also submitted that the copy of the enquiry report has been obtained by the petitioner under Right to Information Act as the same was also not supplied to him.

5] Counsel for the petitioner has also relied upon the decision rendered by this Court in the case of *Praveen S/o Hargovind Dayal Garg vs. State of Madhya Pradesh* reported as 2021 (4) MPLJ 348 wherein, this Court has also relied upon the decision rendered by the Supreme Court in the case of *Tarsem Singh Vs. State of Punjab* reported in (2006) 13 SCC 581. Thus, it is submitted that the impugned order be quashed and the petition be allowed.

6] A reply to the petition has also been filed by the respondents traversing the averments made in the petition.

7] Shri Amit Bhatia, learned Government Advocate has submitted that no case for interference is made out, as the petitioner was hand in glove with the aforesaid accused Rahul Singh as it has been found in the preliminary enquiry that the vehicle, which was seized from the accused Rahul Singh was having a fake number plate; whereas the vehicle itself was obtained by him from the brother of the present petitioner. Thus, it is submitted that the involvement of the petitioner was apparent from the face of the record, and thus, there was no necessity to conduct a detailed departmental enquiry against the petitioner.

8] Heard. So far as the impugned order is concerned, the relevant paras of the same read as under:-



"यह कि जिला मंदसौर एवं आस-पास के जिले मादक पदार्थ तस्करी के लिये जाने जाते हैं। उक्त जसशुदा वाहन के नंबर प्लेट फर्जी होने, चेचिस नंबर, इंजन नंबर घिसे होने, पुलिस का मोनो लगा होने, काली फिल्म लगे होने, पीछे की सीटें न लगी होने से तथा वाहन चोरी का होकर आरक्षक के भाई छोटोसिंह द्वारा आरोपी राहुल को विक्रय किये जाने से यह स्पष्ट होता है कि उक्त वाहन का निश्चित ही अवैध मादक पदार्थ गतिविधियों में उपयोग किया जाता रहा होगा तथा आरक्षक 658 देवेन्द्रसिंह की भी उक्त गतिविधियों में संलिप्तता होना स्पष्ट परिलक्षित होता है इस संबंध में घटना के पश्चात सोशल मीडिया पर भी वाहन से अवैध मादक पदार्थ तस्करी की जाने संबंधी खबरें प्रकाशित हुईं।

उपरोक्त विवेचन से यह प्रमाणित होता है कि निलंबित आरक्षक 658 देवेन्द्रसिंह द्वारा पुलिस कर्तव्य के विपरीत जाकर आचरण सिद्धांतों एवं पुलिस रेग्युलेशन में उल्लेखित सेवा शर्तों का उल्लंघन कर गंभीर कदाचरण किया गया है, जिससे पुलिस विभाग की छवि धूमिल हुई है। मेरा यह समाधान हो गया है कि सिद्ध पाये गये आक्षेपों के संबंध में आगे और जांच किया जाना युक्तियुक्त रूप से साध्य नहीं है तथापि उक्त प्रवृत्ति के कार्मिक को पुलिस विभाग जिसका ध्येय वाक्य "देश भक्ति जन सेवा" है, में निरंतर बनाये रखना मेरे मत में उचित प्रतीत नहीं होता है।

अतः उपरोक्तानुसार मादक पदार्थ गतिविधियों में संलिप्त पुलिस कार्मिक निलंबित आरक्षक 658 देवेन्द्रसिंह तत्का० थाना नारायणगढ़ हाल-पुलिस लाईन मंदसौर को संविधान के अनुच्छेद 311(2) के द्वितीय परंतुक के खण्ड (ख) एवं म०प्र० सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील) नियम 1966 के नियम 19 (दो) में प्रदत्त शक्तियों का प्रयोग करते हुए आज दिनांक 26.05.2023 अपरान्ह से "सेवा से पदच्युत" की दीर्घशास्ति से दण्डित किया जाता है तथा उसकी निलंबन अवधि दि. 28.04.2023 से दि. 26.05.2023 तक कुल 29 दिवस को निलंबन में शुमार किया जाता है।"

9] So far as the order passed by this Court in the case of *Praveen (supra)* is concerned, it is found that this Court has also relied upon the decision rendered by the Supreme Court in the case of *Tarsem*



***Singh*** (supra). The relevant para 11 of the order passed in the case of ***Tarsem Singh*** reads as follows:-

“11. We have noticed hereinbefore that the formal inquiry was dispensed with only on the ground that the appellant could win over aggrieved people as well as witnesses from giving evidence by threatening and other means. No material has been placed or disclosed either in the said order or before us to show that subjective satisfaction arrived at by the statutory authority was based upon objective criteria. The purported reason for dispensing with the departmental proceedings is not supported by any document. It is further evident that the said order of dismissal was passed, inter alia, on the ground that there was no need for a regular departmental inquiry reiving on or on the basis of a preliminary inquiry. However, if a preliminary inquiry could be conducted, we fail to see any reason as to why a formal departmental inquiry could not have been initiated against the appellant. Reliance placed upon such a preliminary inquiry without complying with the minimal requirements of the principle of natural justice is against all canon of fair play and justice. The Appellate Authority, as noticed hereinbefore, in its order dated 24-6-1998 jumped to the conclusion that he was guilty of grave acts of misconduct proving complete unfitness for police service and the punishment awarded to him is commensurate with the misconduct although no material therefor was available on record. It is further evident that the Appellate Authority also mis-directed himself in passing the said order insofar as he failed to take into consideration the relevant facts and based his decision on irrelevant factors.

*(emphasis supplied)*

**10]** In such circumstances, when the fact of the present case are tested on the anvil of the aforesaid decision, this Court finds that a preliminary inquiry was also conducted in the present case as well, but admittedly, the petitioner was not allowed to participate in the same. In such circumstances, this court has no hesitation to come to a conclusion that the impugned orders cannot be countenanced in the eyes of law and is of the considered opinion that it was mandatory on



the part of the respondents to record in writing, assigning the reasons that it is not reasonably practicable to hold such inquiry, which is also the mandate of Article 311 (2)(b) of the Constitution of India.

11] In view of the same, the petition stands *allowed*. The impugned order is hereby quashed and subsequently, the orders passed in the appeals are also quashed. However, liberty reserved to the respondents to conduct an enquiry against the petitioner in accordance with the provisions of the M. P. Civil Services (Classification, Control and Appeal) Rules, 1966, if they are advised.

12] It is made clear that this Court has not reflected on the merits of the case.

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

**(SUBODH ABHYANKAR)**  
**JUDGE**

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