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WP-24512-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 16th OF MAY, 2025WRIT PETITION No. 24512 of 2024*SMT. SUSHMA VAISHYA**Versus**THE STATE OF M.P. AND OTHERS*

Appearance:

Shri L. C. Patne - Advocate for the petitioner.

Shri Rajwardhan Gawde - G.A. appearing on behalf of Advocate General.

Shri Manoj Manav- advocate for the respondent No3.

ORDER

1. This writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

- (a) to call for the relevant records of the case from the respondents;
- (b) to quash the impugned order dated 16/08/2024 (Annexure P/8) issued by Respondent No.1, by a writ RTIORARI or any other appropriate writ, direction or order;
- (c) allow this petition with costs;
- (d) as such other order(s) as may be deemed appropriate in the facts and circumstances of the case, to grant relief to the petitioner.”

2. The petitioner is aggrieved by the order dated 16/08/2024, issued by respondent No.1 Principal Secretary, Department of School Education, Bhopal whereby, it is directed to the petitioner to hand over the charge of higher post of District Education Officer, District Indore to respondent No.3 Smt. Pooja Saxena.

3. The petitioner's grievance is that respondent No.3 happens to be quite junior to the petitioner and despite the fact that the petitioner was already working on the said post, the charge has been given to respondent No.3 without assigning



any reasons.

4. A reply to the petition has also been filed and it is submitted that the petitioner's appointment was temporary in nature on local arrangement basis, however, on account of certain irregularities committed by her, and looking to her stigmatic record, the charge has been given to respondent No.3. It is submitted that earlier also, in a departmental proceeding, the petitioner was punished with withholding of two annual increments with non-cumulative effect, however, in appeal, the same were reduced and she was let off with a warning only. Whereas, in the year 2010, she was also found to be absent from the duty along with 12 other Teachers and a Peon when she was posted as Principal of Government Higher Secondary School, Dakachya, and she was also suspended.

5. It is also submitted that the petitioner, while working as Assistant Director in the office of District Education Officer, Indore on account of transfer of the then District Education Officer, as a transitory local arrangement, was given the additional charge of the post of District Education Officer, and she cannot claim the said position as a matter of right. It is also submitted that the respondent No.3 has already assumed the charge of the said post and in such circumstances, the petition deserves to be dismissed.

6. The respondent No.3 has also filed her reply contending that on account of the tainted record of the petitioner, she cannot claim the aforesaid post, which was also temporary in nature and no illegality has been committed by the respondents in giving the charge to respondent No.3.

7. In rebuttal, a rejoinder has also been filed by the petitioner placing on record the order dated 14/07/2011, whereby in the case of her alleged unauthorized absence, her suspension was revoked after being satisfied with her reply, however, it is admitted that in the aforesaid case, a minor punishment of withholding of one



increment without cumulative effect against the petitioner. It is also submitted that so far as respondent No.3 is concerned, against her, various financial irregularities have been alleged and a charge sheet has also been issued to her on 08/06/2017, in which, as many as 18 charges have been framed against her, and in such circumstances, it cannot be said that the respondent No.3 was a better candidate than the petitioner.

8. Heard. Having considered the rival submissions and on perusal of the documents filed on record, it is apparent that both, against the petitioner as also against respondent No.3, do not have an unblemished record. In such circumstances, this Court does not find that both the persons are competent enough to be given the charge of District Education Officer, and in such circumstances, the orders passed in favour of both, the petitioner as also respondent No.3 cannot be sustained and are hereby quashed, and the State Government is directed to appoint a competent person on the post of District Education Officer, District Indore without any stigmatic past, at the earliest.

9. According, writ petition stands *disposed of*.

(SUBODH ABHYANKAR)
JUDGE