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WP-15019-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

WRIT PETITION No. 15019 of 2025*KAILASH PATHAK**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Rajat Raghuwanshi - Advocate for the petitioner.

Shri Raghav Srivastav -GA appearing on behalf of Advocate General.

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Reserved on :02.12.2025.

Post on : 06.01.2026

ORDER

The petitioner has approached this Court under Article 226 of the Constitution of India seeking following reliefs:-

i. That, the impugned order dated 13/03/2025 (Annexure P/1) and order dated 04.10.2023 (Annexure P/2) passed by the Respondent No. 2 & 3 may kindly be quashed and set aside.

ii. That, it may held that the charges against the petitioner are not made out.

iii. That, the deducted salary or any other loss has been occurred during the period of suspension should also be compensated to the petitioner.

iv. That, other relief which is just and proper in the facts and circumstances of the case may also be granted”

2. It is the case of the petitioner that he was appointed on 10/10/1998 as



Secretary (Panchayat Sachiv) in Gram Panchayat Aasandha, Tehsil Barod, District Agar, Madhya Pradesh. The petitioner continued to discharge his duties under the Panchayat administration for several years within the territorial jurisdiction of this Court.

3. It is further the case of the petitioner that during his service career, he was earlier placed under suspension on 31/12/2010 on the basis of a complaint, which suspension was revoked by order dated 27/01/2012 after consideration of the facts and evidence on record. Again, on 08/03/2019, he was suspended on another complaint, which was subsequently found to be forged and bogus, and he was reinstated by order dated 07/07/2021, recording that the allegations did not pertain to serious criminality or financial irregularity.

4. It is also the case of the petitioner that on 24/07/2023, an order was passed alleging that he remained absent for about one month due to a dispute in Gram Panchayat Ramnagar, though he had marked his presence on 19/07/2023 at Janpad Panchayat Barod. He was thereafter temporarily entrusted with the charge of Gram Panchayat Aasandha. However, on 04/10/2023, respondent No.3 suspended the petitioner on the basis of allegations emerging from an enquiry, relating to issuance of forged pattas, collection of building tax without deposit in Panchayat accounts, and misuse of official position.

5. It is further the case of the petitioner that the suspension order dated 04/10/2023 was passed without conducting a lawful enquiry and without affording proper opportunity of hearing. Being aggrieved, the petitioner preferred an appeal under the M.P. Panchayat Raj Evam Gram Swaraj



Adhiniyam, which, after dismissal for want of prosecution and restoration, was finally dismissed on merits by order dated 13/03/2025, leading to the filing of the present writ petition.

6. Learned counsel for the petitioner submits that the impugned suspension order is arbitrary, illegal, and without jurisdiction, having been passed in violation of statutory provisions and principles of natural justice. It is contended that no charge-sheet, enquiry report, or supporting documents were supplied to the petitioner and that the alleged enquiry was conducted behind his back despite repeated requests and filing of an RTI application.

Moreover, it is submitted that the allegations forming the basis of suspension are false, baseless, and motivated, arising out of malice on the part of the Sarpanch due to the petitioner's refusal to participate in illegal activities. It is further contended that the impugned order is non-speaking, ignores the petitioner's past unblemished service record, causes irreparable loss, and is therefore liable to be quashed.

7. Per contra, Learned counsel for the respondents submits that the suspension order was preceded by a detailed enquiry into serious allegations against the petitioner, including issuance of forged pattas, illegal collection of building tax from residents of the Gram Panchayat without depositing the same in official accounts, and misuse of public office. Based on the enquiry report, a show cause notice dated 05.09.2023 was issued to the petitioner, clearly setting out the allegations and calling upon him to submit his written reply with supporting evidence.

8. It is further submitted by the learned counsel for the respondents that the show cause notice specifically required the petitioner to appear on



08/09/2023 and warned that in case of failure, ex parte action would be taken. Despite due service of notice and grant of reasonable opportunity, the petitioner neither appeared before the authority nor submitted any reply. In view of such deliberate non-cooperation, the respondent authority was constrained to proceed further in accordance with law. Further considering the gravity of the allegations and the petitioner's failure to respond, the suspension order dated 04/10/2023 was passed to ensure a free, fair, and uninfluenced departmental enquiry. It is submitted that the suspension was necessary to prevent tampering with evidence, influencing witnesses, and misuse of official position during the pendency of the enquiry, and was passed strictly as an interim administrative measure.

9. Respondents further stated that the appeal preferred by the petitioner was duly examined on merits by the competent appellate authority under the M.P. Panchayat Raj Evam Gram Swaraj Adhiniyam. After examining the entire record, including the enquiry material and procedural compliance, the appellate authority, by a reasoned order dated 13/03/2025, upheld the suspension order, holding that the action was justified and in accordance with law.

10. Learned counsel for the respondents lastly submits that the suspension order and the appellate order are speaking orders, recording reasons, consideration of allegations, after affording opportunity to the petitioner, and statutory provisions were invoked. The allegations of mala fides, bias, and violation of natural justice are categorically denied. It is further submitted that the petitioner is facing departmental enquiry on similar charges and that steps for lodging of an FIR for offences of forgery and



cheating are also under contemplation.

11. Heard both parties at length and examined the entire record available.

12. This Court is of the considered opinion that the record placed before this Court clearly reveals that the suspension order dated 04/10/2023 was not passed in isolation or abruptly, but was preceded by a detailed enquiry and issuance of a show cause notice dated 05/09/2023. The said notice specifically enumerated the allegations against the petitioner, including issuance of forged pattas, illegal collection of building tax without deposit in Gram Panchayat accounts, and misuse of official position. The notice granted reasonable time to the petitioner to submit his reply and supporting documents, thereby satisfying the basic requirement of *audi alteram partem*.

13. This Court, upon due consideration, finds that despite due service of the show cause notice and a clear warning that ex parte action would be taken in case of non-compliance, the petitioner consciously chose not to submit any reply or appear before the authority. The failure of the petitioner to avail the opportunity provided cannot be attributed to the respondent authorities. A party who deliberately remains absent and non-responsive cannot subsequently allege violation of principles of natural justice, as the law does not protect indolence or calculated inaction.

14. This Court is of the considered opinion that the nature of allegations levelled against the petitioner, as reflected in the reply filed by the State, are grave and serious, involving forgery of pattas, misappropriation of public funds, preparation of fabricated documents, and abuse of public office. Such allegations, by their very nature, strike at the root of public administration



and financial discipline in Panchayat governance. In cases involving allegations of this magnitude, the competent authority is justified in exercising its power to place the delinquent employee under suspension pending enquiry.

15. This Court further finds that the contention of the petitioner that the suspension is punitive in nature is misconceived. Suspension, as consistently held, is not a punishment but an interim administrative measure intended to facilitate a free, fair, and unbiased enquiry. In the present case, the suspension was ordered to ensure that the petitioner does not tamper with records, influence witnesses, or misuse his official position during the pendency of departmental proceedings. The reply of the State clearly demonstrates that the action was preventive and procedural rather than punitive.

16. This Court is of the considered opinion that the Appellate Authority has applied its independent mind while examining the legality and propriety of the suspension order. The appellate order dated 13/03/2025 records consideration of the petitioner's submissions, the enquiry material, the opportunity afforded to the petitioner, and the statutory provisions governing suspension. The appellate authority has clearly recorded reasons for upholding the suspension, thereby satisfying the requirement of a speaking and reasoned order.

17. This Court, upon appreciation of the entire record, finds that the petitioner's repeated reliance on earlier reinstatements does not advance his case. Each suspension must be examined on its own factual foundation. While earlier suspensions were revoked after consideration of the material



available at that time, the present suspension arises out of distinct allegations supported by an enquiry report and additional material, including allegations of fabrication of documents and misappropriation of public funds, which are presently under departmental scrutiny. Furthermore, the allegations of mala fides and bias raised by the petitioner are vague, bald, and unsupported by any cogent material. Merely alleging malice on the part of the Sarpanch or respondent authorities, without specific pleadings or proof, does not meet the legal threshold required to invalidate administrative action. The reply filed by the State categorically denies such allegations and demonstrates that the action was taken in discharge of statutory duty and not due to any extraneous consideration.

18. This Court further finds that the plea that the impugned orders are non-speaking is factually incorrect. Both the suspension order dated 04/10/2023 and the appellate order dated 13/03/2025 record the reasons for action, reference the allegations, note the opportunity provided to the petitioner, and invoke the relevant statutory provisions. The orders, therefore, satisfy the requirement of reasoned decision-making and cannot be faulted on the ground of arbitrariness.

19. This Court finally finds that at the stage of suspension and pendency of departmental enquiry, the scope of judicial review under Article 226 of the Constitution of India is limited. This Court is not expected to examine the truth or correctness of the charges or to conduct a mini-trial. So long as the action taken by the competent authority is concerned, it is after affording opportunity and is supported by reasons, hence the interference by this Court in it would be unwarranted.



20. In this context, this Court finds it appropriate to cite the landmark judgment of the Hon'ble Apex Court in **P.R. Nayak v. Union of India**, (1972) 1 SCC 332 : 1971 SCC OnLine SC 422 which reads as follows:-

“47. Fifthly, there can be suspension of a government servant after a preliminary investigation when disciplinary proceedings in the form of departmental inquiry are contemplated. This suspension is not a punishment but a disciplinary matter in aid of disciplinary proceedings. Suspension is ordered to facilitate free investigation and collection of evidence. It may be that the Government may not after suspension order a departmental inquiry if there is not adequate evidence. Again, where suspension takes place during investigation of a criminal case there may be departmental enquiry even after conviction or acquittal. The departmental enquiry is for inflicting punishment. Suspension is not so. That is why if there is favourable report after a departmental inquiry the government servant may obtain restoration of reduction of pay during the period of suspension. Departmental proceedings, disciplinary proceedings, preliminary enquiries for setting up an authority under the provision of the Public Servant Inquiry Act, 1950, are all variants of disciplinary proceedings.”

21. Moreover, Hon,ble Apex Court in the case of **State of Orissa v. Bimal Kumar Mohanty**, (1994) 4 SCC 126 : 1994 SCC (L&S) 875 : 1994 SCC OnLine SC 116, has discussed the same aspect, the relevant lines reads as follows:-

13. It is thus settled law that normally when an appointing authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission and commission, the order of suspension would be passed after taking into consideration the gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on



consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee. The Court or the Tribunal must consider each case on its own facts and no general law could be laid down in that behalf. Suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by him. In other words it is to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression among the members of service that dereliction of duty would pay fruits and the offending employee could get away even pending inquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the inquiry or investigation or to win over the witnesses or the delinquent having had the opportunity in office to impede the progress of the investigation or inquiry etc. But as stated earlier, each case must be considered depending on the nature of the allegations, gravity of the situation and the indelible impact it creates on the service for the continuance of the delinquent employee in service pending inquiry or contemplated inquiry or investigation. It would be another thing if the action is actuated by mala fides, arbitrary or for ulterior purpose. The suspension must be a step in aid to the ultimate result of the investigation or inquiry. The authority also should keep in mind public interest of the impact of the delinquent's continuance in office while facing departmental inquiry or trial of a criminal charge.

22. This Court, upon an exhaustive appreciation of the facts concludes that the suspension order dated 04/10/2023 and the appellate order dated 13/03/2025 are legally sustainable, procedurally sound, and do not suffer from any arbitrariness, illegality, or perversity warranting interference under Article 226 of the Constitution of India.

23. Accordingly, the writ petition is **dismissed** being devoid of merit. The petitioner shall be at liberty to participate and defend himself in the pending departmental enquiry in accordance with law.

24. Pending applications shall be disposed off accordingly.



10

WP-15019-2025
(JAI KUMAR PILLAI)
JUDGE

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