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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE  
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR  
ON THE 25<sup>th</sup> OF MARCH, 2025  
WRIT PETITION No. 1688 of 2025  
*GITESH KUMAR WAGHE*  
Versus  
*THE STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

*Shri Vivek Nagar – Advocate for the petitioner.*

*Shri Rajwardhan Gawde – G.A. for respondent No.1/State.*

*Shri Manan Agrawal – Advocate for respondent Nos.2 & 3  
through video conferencing.*

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**ORDER**

1] Heard.

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

“(a) a writ direction/order in the nature of mandamus or certiorari or as deemed fit be issued and the order dated 13-11-2024 be quashed.

(b) The, respondents be directed to allow the petitioner to work in the present place of posting i.e. as Assistant Block manager at Vikas Khand Rajpur, District Barwani.

(c) That, the representation given by respondent to District Pariyojana Prabandhak on 14-11-2024 must be considered.

(d) This petition be allowed with costs.

(e) Any other relief which this Hon'ble Court deems fit be also granted.”

3] The petitioner is aggrieved by orders dated 13.11.2024 and 08.01.2025 passed by respondent No.2 – Deputy Chief Executive Officer, MP Day State Rural Livelihood Mission, Bhopal. Vide order dated 13.11.2024 the petitioner, who is posted as Assistant Block Manager, Vikas Khand Rajpur, District Barwani has been transferred



to Vikas Khand Harsud, District Khandwa on the ground of the petitioner being the surplus employee. The aforesaid order was earlier challenged by the petitioner in W.P. No.36685 of 2024, which was decided on 28.11.2024, directing the respondents to decide the petitioner's representation, and after the petitioner filed his representation, the same has been rejected vide the impugned order dated 08.01.2025 passed by the respondent No.2 holding that the transfer is made on the ground of administrative exigencies.

4] Shri Vivek Nagar, learned counsel for the petitioner has submitted that the respondents have changed their stance in respect of the petitioner's transfer, as earlier he was transferred on the ground that he is a surplus employee, whereas, subsequently, when the petitioner also obtained a report dated 19.11.2024, from Chief Executive Officer, Barwani (Annexure P/9) informing that at Barwani three posts are still vacant and s after the transfer of the petitioner and other persons, they would be running short of eight personnel, the impugned order has been passed on the ground of administrative exigencies. Counsel has submitted that in such circumstances, when the ground of petitioner being in surplus does not hold water, the respondents have taken a different stand, hence the impugned orders deserve to be quashed.

5] Counsel for the petitioner has also submitted that the petitioner is a contractual employee, and could not have been transferred as no such circumstances exist, which could have led the respondents to transfer the petitioner. It is also submitted that the petitioner's wife is also posted at Barwani. In such circumstances, the representation submitted by the petitioner ought to have been accepted.



6] The prayer is opposed by the counsel for the respondent Nos.2 and 3, who have also filed a joint reply. The respondents' contention is that the petitioner and the other persons have been so transferred on the ground of administrative exigencies only, as in District Khandwa also the respondents are already running short of two persons, and has also drawn the attention of this Court to the status of the vacancies in Khandwa, as on 03.02.2025, wherein at Khandwa only three posts are presently occupied, and they are running short of two posts.

7] Counsel for the respondents has also submitted that the petitioner's employment was of contractual in nature, and as per Clause 32 of the contract, the right of the respondents to transfer the petitioner to some other District, vests with the respondents only. It is further submitted that the petitioner is posted at Rajpur since last around 12 years, and thus, no illegality has been committed by the respondents in passing the impugned order. Counsel has also drawn the attention of this Court to Clause 9.1 of the policy, wherein it is provided that on account of administrative exigencies, a person can be transferred.

8] Heard counsel for the parties and perused the record.

9] So far as the contention of the petitioner that he being the contractual employee, hence, cannot be transferred is concerned, it is found that as per Clause 32 of the contract, the power of transfer has already been given to the Appointing Authority to transfer the employees to other District(s).

10] So far as the vacancy as exists in the District Barwani is concerned, where the petitioner is posted at Rajpur, this Court is of the considered opinion that it is for the employer only to decide as to how



the employees are to be shifted from one place to another when the vacancies exist on multiple places, taking into account the administrative exigencies, as it is also found that in Khandwa Block also there is a short fall of two vacancies, whereas in the cluster of District Khandwa falling under the District Project Manager, Khandwa, there is a short fall of 13 employees, which is more than the Barwani. Thus, this Court is of the considered opinion that in its supervisory jurisdiction, unless there are allegations of the impugned order being passed by the authority without jurisdiction or tainted with mala fide, this Court cannot interfere with the discretion exercised by the District Project Manager, who is better equipped to decide as to how the vacancies are to be filled up and managed.

11] In such circumstances, and also taking into account the fact that the petitioner is posted at District Barwani since last 12 years, this Court does not find it to be a fit case to interfere in the matter.

12] Accordingly, the petition is hereby *dismissed*.

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

Pankaj