



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

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 1st OF MAY, 2025

WRIT PETITION No. 1862 of 2025

RAKESH KUMAR RAIKWAR

Versus

STATE OF M.P. AND OTHERS

Appearance:

Shri Vikas Jaiswal- Advocate for the petitioner.

Dr. Amit Bhatia- G.A. for the State.

Shri Abhinav Dhanodkar- Advocate for the respondent No.2.

ORDER

Heard.

2] This 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 to the respondents and the order dated 28/05/2024 passed by the respondents be may kindly be quashed.

(b) The petitioner be permitted to work as Mandi Inspector at the Krishi Upaj Mand Samiti Ujjain, District — Ujjain, M.P.

(c) This petition be allowed with costs as the petitioner is being harassed for no valid reason.

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

3] The petitioner is aggrieved by the order dated 28.05.2024, whereby, he has been dismissed from service on account of his conviction in Special Case No.4/2023 under Section 7 of the Prevention of Corruption Act, 1988 and Section 120-B of the IPC, against which the petitioner has already preferred a criminal appeal, bearing Cr.A. No.424 of 2024 on 29.08.2024. However, on account of



the petitioner's conviction, he has been dismissed from service, without affording any opportunity of hearing.

4] Counsel for the petitioner has also relied upon the decision rendered by the Co-ordinate Bench of this Court in the case of ***Balram Ruhela Vs. State of M.P. and Others***, passed in W.P. No.8171/2023 dated 02.02.2024, wherein, the Court has also relied upon the Division Bench judgement of this Court at Jabalpur in the case of ***Rajendra Prasad Chourey Vs. Union of India & Ors.*** passed in ***W.P. No.1605 of 2018 dated 27.01.2023***. Thus, it is submitted that since in the present case also, the petitioner has not been given any opportunity of hearing before passing the impugned order, the order may be quashed and the matter may be remanded back to the respondents to pass the appropriate order.

5] Counsel for the respondent, on the other hand, has opposed the prayer. Although, no reply has been filed, however, counsel has submitted that the present case is governed by the Madhya Pradesh Rajya Mandi Board Seva Viniyam 1998 (hereinafter referred to as 'the Seva Viniyam 1998') and has also drawn the attention of this Court to Rule 34 of the Seva Viniyam 1998, under which the aforesaid order has been passed, and it is submitted that the decision rendered by this Court in the case of ***Balram Ruhela (Supra)*** is distinguishable on the ground that the aforesaid order relates to Rule 19 of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter referred to as 'the Rules of 1966'), whereas, the present case relates to Mandi Rules as aforesaid.

6] Heard. Having considered the rival submissions and on perusal of the record, as also the relevant rules, it is found that so far as



Rule 34 of the Seva Viniyam 1998 is concerned, the same reads as under:-

“34. कतिपय मामलों में विशेष उपबंध:

विनियम 32 व 33 के उपबंध उस स्थिति में लागू नहीं होंगे जहां सेवा के सदस्य पर किसी आचरण के आधार पर जिसके फलस्वरूप वह किसी अपराधिक आरोप का दोष सिद्ध पाया गया हो, शास्ति अधिरोपित की गई हो और ऐसे किसी भी मामले में दण्ड देने वाला प्राधिकारी मामले पर विचार करने के पश्चात् उस पर ऐसे आदेश पारित करेगा जैसा कि वह उचित समझे।

*34(1) (क) कर्मचारी के सेवानिवृत्ति/त्यागपत्र के पूर्व संस्थापित विभागीय जाँच ठीक उसी प्रकार चलेगी जो कि निवृत्त कर्मचारी सेवा में रहता तो चलती।

(ख) सेवानिवृत्ति तथा त्यागपत्र देने एवं स्वीकृत होने के पश्चात् दो वर्ष की कालावधि के भीतर यदि निवृत्त कर्मचारी के विरुद्ध कोई तात्त्विक साक्ष्य उपलब्ध हो तो अनुशासिक प्राधिकारी लेखबद्ध कारणों के आधार पर विभागीय जाँच संस्थापित कर सकेगा:

परन्तु ऐसी कोई भी जाँच पूर्ण होना तथा उस पर अंतिम निर्णय एक वर्ष की कालावधि में लिया जाना आवश्यक होगा।

**34(2) "विनियम 32 तथा इसके उपविनियमों में अन्तर्विष्ट किसी भी बात के होते हुए भी जहां अनुशासिक प्राधिकारी का उसके द्वारा अभिलिखित किये जाने वाले कारणों से यह समाधान हो जाये कि इन नियमों में उपबंधित की गयी रीति में जांच करना युक्तियुक्त रूप से व्यवहार्य नहीं है वहां अनुशासिक प्राधिकारी मामले की परिस्थितियों पर विचार कर सकेगा और उस पर ऐसे आदेश दे सकेगा जैसा कि वह उचित समझे।"

(Emphasis Supplied)

Whereas, Rule 19 of the Rules of 1966 reads as under:-

“19. Special procedure in certain cases.- Notwithstanding anything contained in Rule 14 to Rule 18 :-

(i) where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, or

(ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or

(iii) where the Governor is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit:



Provided that the Commission shall be consulted where such consultation necessary, before any orders are made in any case under this rule.”

(Emphasis Supplied)

7] On perusal of both the Rules, it is found that Rule 34(2) of the Seva Viniyam 1998 is in *pari materia* with Sub-Rule (ii) of Rule 19 of Rules of 1966, as both the Rules provide for dismissal of an employee without initiating any enquiry. However, this aspect of the matter has already been interpreted in various decisions of this Court, and in such circumstances, taking note of the order passed by this Court in the case of **Balram Ruhela (Supra)**, as also in the case of **Rajendra Prasad Chourey (Supra)**, the impugned order dated 28.05.2024 cannot be sustained in the eyes of law and is hereby aside side. However, with liberty reserved to the respondents to pass the fresh order, in accordance with law.

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

(SUBODH ABHYANKAR)
JUDGE

Bahar