

1  
**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

**ON THE 18<sup>th</sup> OF MARCH, 2024**

**WRIT PETITION No. 17798 of 2022**

**BETWEEN:-**

**YOGESH MAHOLKAR S/O SHRI PRAKASH MAHOLKAR,  
AGED ABOUT 45 YEARS, OCCUPATION: SUB ENGINEER  
JANPAD PANCHAYAT BURHANPUR DISTT. BURHANPUR  
(MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI MANAN AGARWAL - ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH  
PRINCIPAL SECRETARY PANCHAYAT AND RURAL  
DEVELOPMENT DEPARTMENT VALLABH  
BHAWAN DISTRICT BHOAPL (MADHYA PRADESH)**
- 2. THE COMMISSIONER INDORE DISTRICT INDORE  
(MADHYA PRADESH)**
- 3. THE COLLECTOR AND ZILA KARYAKARM  
S A M A N V A Y A K B U R H A N P U R DISTRICT  
BURHANPUR (MADHYA PRADESH)**
- 4. THE CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT  
DISTRICT BURHANPUR (MADHYA PRADESH)**
- 5. THE CHIEF EXECUTIVE OFFICER JANPAD  
PANCHAYAT BURHANPUR DISTRICT  
BURHANPUR (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI T.K. KHATKA - PANEL LAWYER)***

.....  
*This petition coming on for admission this day, the court passed the  
following:*

**ORDER**

Petitioner is aggrieved of the order dated 23.11.2021 passed by the Collector and District Project Coordinator, Burhanpur, district Burhanpur i.e. respondent No.3, whereby petitioner's services on the post of Sub-Engineer (contractual) has been dispensed with and thereafter, respondent No.2 Commissioner Indore Division Indore has dismissed the appeal vide order dated 01.07.2022.

2. Petitioner's contention is that no show-cause notice was given to the petitioner and therefore, there is violation of the principle of natural justices.

3. When Shri T.K. Khatka, learned Panel Lawyer drew attention of this Court towards the show-cause notice dated 07.09.2021 (Annexure R-4) issued by the Chief Executive Officer, Janpad Panchayat Burhanpur to the petitioner, petitioner's counsel Shri Manan Agarwal admits that this notice was served on him. He when asked that as to when he had given reply to said show-cause notice, he admits that no reply was filed to that show-cause notice but in his turn submits that the order impugned is stigmatic in as much as petitioner's performance has been evaluated at 17.84% of the allocated work, whereas petitioner had performed much better.

4. The fact of the matter is that, petitioner's first ground that principles of natural justices were not followed and order passed in stigmatic is not made out from the fact that Annexure P-3 which is the appointment order though makes a mention of the fact that the services of the contractual employees shall not be dispensed with in an arbitrary and illegal manner without giving him show-cause notice but fact of the matter is that show-cause notice was given. Admittedly, it was received and the petitioner chose not to file any reply to the show-cause notice.

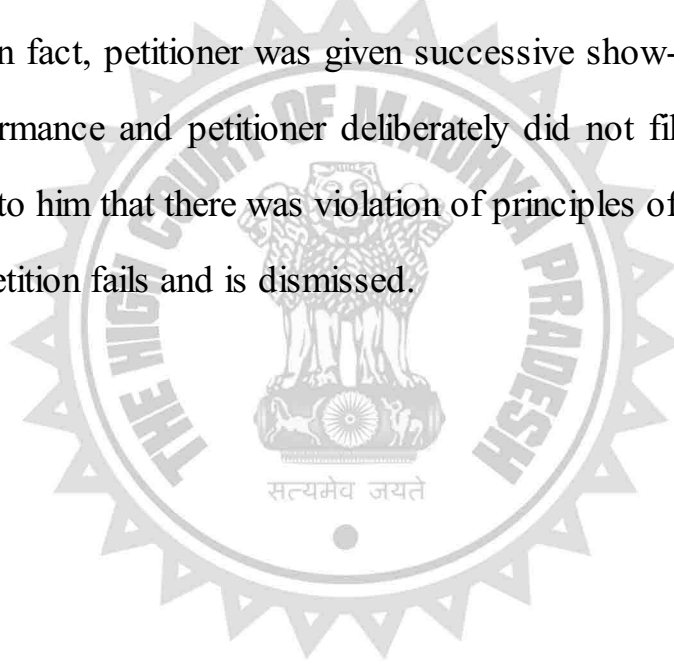
5. Therefore, this Court being not sitting in as a Second Appellate

Authority over the decision of the Collector and the Program Coordinator and that of the Revenue Commissioner, and the fact that petitioner has made a bogie of COVID which is not being made out from the record in as much as Annexure R-4 was issued on 07.09.2021 and the order was passed by the respondent No.3 on 23.11.2021 when COVID in all its manifestation had died and was not prevalent in India, so any alarming features preventing the petitioner from filing the reply to the show-cause notice, the foundation of case, the petitioner having failed to file reply to the show-cause notice it cannot be said that there is violation of the principles of natural justice.

6. In fact, petitioner was given successive show-cause notice in regard to his performance and petitioner deliberately did not file the reply then it is not available to him that there was violation of principles of natural justices.

7. Petition fails and is dismissed.

AR



**(VIVEK AGARWAL)**  
**JUDGE**