

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

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 12th OF AUGUST, 2025

WRIT PETITION No. 33432 of 2024

ASHISH KURMI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Siddhant Kochar - Advocate for the petitioner.

Shri Praveen Namdeo – Govt. Advocate for the respondents / State.

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ORDER

By way of present petition the challenge is made to order dated 07.10.2024 (Annexure P-4) whereby the services of the petitioner have been terminated on account of presentation of Chalan in criminal case involving Prevention of Corruption Act. The said order has been passed without granting any opportunity of hearing to the petitioner and without even issuing any show cause notice to the petitioner. As per reply of the respondent,s the said order has been passed as intimation was received from Special Police Establishment, Lokayukta, Sagar regarding presentation of charge sheet against the petitioner before Special Court (PC Act).

2. The aforesaid issue is no longer *res integra* as this Court in WP. No.14966/2023 has decided a similar matter by considering the judgment

of Division Bench of this Court in WA No. 1199/2021. The aforesaid case has been decided in following manner:-

The present petition has been filed challenging the order Annexure-P/4 whereby the services of the petitioner have been terminated.

2. Learned counsel for the petitioner submits that the petitioner was working on the post of Gram Rojgar Shahayak and a challen under Sections 7, 12, 13(1)(b), 13(2) of Prevention of Corruption Act has been presented against the petitioner and only on account of presentation of challan his services have been terminated without any enquiry or other proceedings.

3. The petitioner contends that till date there is no finding of guilt against the petitioner by the criminal Court and even the respondents have not conducted any parallel enquiry. Thus, the service of the petitioner could not have been terminated in such a manner, though he was a contractual employee.

4. Per contra, learned counsel for the State has submitted that in terms of the circular of the State Government dated 21.02.2018, 26.02.2018 and 02.11.2019. The services of contractual employee can be terminated only on account of presentation of challan before the criminal Court for offence involving moral turpitude or corruption. It is contended that the circular dated 02.11.2019 specifically applies to Gram Rojgar Shahayak and the petitioner was not entitled to any notice or opportunity of hearing.

5. Upon hearing the learned counsel for the parties, it is observed that the petitioner has placed heavy reliance on the conditions attached to the appointment order Annexure-P/1. As per condition No.15, it is provided that in case the contractual employee is found in indulging in any misconduct or criminal activity, then his contractual services may be terminated after giving appropriate opportunity of hearing. Thus, it is contended that that the petitioner, even if not entitle to a full fledged departmental enquiry, but was entitle to an appropriate opportunity of hearing.

6. The State has relied on government notification dated 21.02.2018 which provides that if any criminal case or trap case is registered against contractual employee then his services can be terminated without any show cause notice. The said circular has modified an earlier circular dated 01.02.2016 wherein it was provided that for terminating the services of contractual employee prior to expiry of tenure of contract, one month salary may be paid. The aforesaid

circular dated 21.02.2018 has been interpreted vide order Annexure-P/8 and it has been held that opportunity of hearing even in such cases of trapped is a must. It is so held in W.P No.10129 of 2018 decided on 09.05.2018 vide Annexure-P/8.

A Division Bench of this Court in W.A No.1199 of 2021 while considering the same government circular has held as under:-

"The case of the petitioner is that initially he was appointed on contract in the year 2018 for a period of two years. Thereafter, the same was continued time and again and he is presently working on contract. By virtue of the impugned order he was terminated from services on the ground that the Lokayukt registered a case against him in Crime No.385/2015 under Sections 7, 13 (1) (d) & 13 (2) of Prevention of Corruption Act, 1988. The chargesheet has also been filed. Questioning the same, the instant writ petition was filed on the ground that in terms of the norms of the Contract, unless for a period of one month's notice is given, the contract could not be terminated.

Learned Single Judge while relying on the Government Notification, dated 21.02.2018 held that it is not required and accordingly dismissed the writ petition.

Learned counsel for the petitioner contends that in similar circumstances, the learned Single Judge of this Court in the order dated 30.07.2018 passed in W.P.No.16864 of 2018 stayed the order of termination while granting liberty to the respondents therein, to follow the provisions of law after providing reasonable opportunity of hearing to the petitioner.

On considering the reasons assigned, we are of the view that the same relief was required to be granted to the petitioner herein. Irrespective of the contentions being advanced, a one month's notice is to be issued to the respondents. Since the same has been violated, the impugned order of the termination, in our considered view, would not survive for consideration.

Consequently, the writ appeal is allowed.

The order passed by the learned Single Judge dated 12.11.2021 in W.P.No.24692 of 2021 is set aside.

The writ petition is allowed.

The order of termination dated 03.11.2021 is set aside.

Liberty is granted to the respondents to take appropriate action against the petitioner after following the conditions in the contract by giving one month's notice before termination etc.

The appellant is therefore, permitted to continue in services till then."

7. Consequently, following the order passed by the Division Bench, this petition is **disposed of** in the following terms:-

1. The order of termination of Annexure-P/4 dated 19.05.2023 is **set aside**.

2. Liberty is granted to the respondents to take appropriate action against the petitioner after following conditions of the contract by giving one month notice before termination.

3. The petitioner is permitted to continue in service till them.

4. No order as to back wages.”

3. The counsel for the petitioner fairly submits that writ appeal against the said order has been filed by the State, however, there is no stay in the said writ appeal.

4. Considering the aforesaid, as the present case also stands on similar footing, therefore the impugned order (Annexure P-4) in the present case is also quashed in similar terms. The order in WP No.14966/2023 will apply to the case of present petitioner also mutatis mutandis with similar liberty being reserved to the respondents.

5. It is further observed that in case the writ appeal against order passed in WP No.14966/2023 is allowed then consequences would fall on the present petitioner also. With the aforesaid directions, the petition is **allowed and disposed off**.

nks

(VIVEK JAIN)
JUDGE