



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

**BEFORE**

**HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,  
CHIEF JUSTICE**

**&**

**HON'BLE SHRI JUSTICE VINAY SARAF**

**WRIT APPEAL No. 86 of 2025**

***DHEERAJ SINGH THAKUR AND OTHERS***

*Versus*

***UNION OF INDIA AND OTHERS***

.....  
**Appearance:**

*Smt. Shobha Menon – Senior Advocate with Shri Rahul Choubey –  
Advocate for Appellants.*

*Shri Ishan Soni – Advocate for Respondent Nos.1 to 3.*

*Smt. Kanak Gaharwar – Advocate for Respondent No.4.*

.....  
*Reserved on :07.07.2025*

*Pronounced on :23.07.2025*  
.....

**ORDER**

*Per: Vinay Saraf, J.*

1. By taking exception to the order dated 10.12.2024 passed by learned Single Judge in Writ Petition No.5943/2022 whereby the writ petition filed by the present appellants was dismissed, the appellants have preferred the instant *intra-court* appeal under section 2(1) of Madhya Pradesh Uchcha Nyayalaya (Khand Nyaya Peeth Ko Appeal) Adhiniyam, 2005.

2. The appellants are working as Security Guards on contractual basis through security agencies and are rendering their services to respondent no.4/Bhopal Memorial Hospital and Research Centre (in short "BMHRC") since 2002. BMHRC is an Institute of Indian Council of Medical Research (in short "ICMR")



3. A policy decision was taken by ICMR in respect of hiring of security services for ICMR Institutes/Headquarters and in furtherance of the policy decision an office order was issued by Deputy Director General (Admn.) on 22.02.2022; whereby keeping in view of the security threats and bio hazards, visit of foreign delegates and VVIP, the ICMR Headquarters/Institutes/Centres have been classified in two categories; (i) High Priority Security Cover (ii) Moderate Security Cover. BMHRC, Bhopal has been categorized as High Priority Security Cover and as per the office order for the premises of High Priority Security Cover, it is directed to engage the security agencies enlisted by the Director General of Resettlement (DGR) through GeM portal with 100% staff from Ex-service or Ex-paramilitary persons.

4. Office order dated 22.02.2022 was challenged by the appellants along with other petitioners in Writ Petition No.5943/2022 mainly on the ground that ICMR has erroneously assumed the threats and directed to engage the security agencies enlisted by DGR and the decision to mandatorily engage the services of security agencies with staff of Ex-service or Ex-paramilitary persons is arbitrary, illegal and unjust, which would have cascading impact on appellants as they have been engaged as Security Guards from inception and they are performing their duties successfully without complaint. The order is also challenged on the ground that it is violative of Articles 14 and 21 of Constitution of India.

5. Learned Single Judge by the impugned order dated 10.12.2024 dismissed the petition by holding that the scope of judicial review of government policy is very limited and the Courts cannot act as an appellate authority to examine the correctness, suitability and appropriateness of a policy. It is further held that hiring of men power does not amount to capital expenditure and, therefore, the limit prescribed in Appendix-II to



incur capital expenditure, is not relevant for the case in hand. It is also recorded by the learned Single Judge that no extra-financial burden is going to be caused on BMHRC for engaging Ex-servicemen or Ex-paramilitary personnel. The learned Single Judge dismissed the petition by holding that the impugned policy decision of ICMR does not suffer from any arbitrariness and it does not call for any indulgence.

6. Arguments heard for the purpose of final disposal of the present writ appeal.

7. Smt. Shobha Menon, learned Senior Advocate appearing on behalf of the appellants submits that ICMR had arbitrarily taken the decision to classify the Institutes/Headquarters/Centres in two categories and issued the order to engage 100% staff from Ex-servicemen or Ex-paramilitary personnel for High Priority Security Cover Centres and 60% Ex-servicemen or Ex-paramilitary persons in Moderate Security Cover with 40% trained civilian security staff. Appellants have tried to point out that BMHRC, Bhopal is having hospitals, hostels, ICCU Wards, Directors' office, residential bungalow, campus, 8 health centres situated at different locations except labs/bio labs and, therefore, even as per the rationale given by the ICMR for engaging the 100% Ex-servicemen or Ex-paramilitary personnel for High Priority Security Cover are not applicable to BMHRC and the appellants are competent to provide the security to BMHRC. Classification between High Priority Security Cover and Moderate Security Cover is artificial and the appellants, those are rendering their services since 2002, cannot be deprived from their bread and butter by the colorable exercise of administrative powers. Learned Senior Advocate further submits that so called security threats is only figment of imagination and there is no such threat to the centres of BMHRC, Bhopal. Due to the decision of ICMR, all the appellants have



become ineligible to be engaged by BMHRC, therefore, the rationale for taking such decision may be examined by this Court.

8. Learned Senior Advocate relied on a judgment rendered by the Supreme Court in the matter of *Rachna and others Vs. Union of India and Another*, reported in (2021) 5 SCC 638; wherein the Supreme Court has held that policy decisions are open for judicial review for very limited purpose and the Court can interfere into realm of public policy, so framed if it is either absolutely capricious, totally arbitrary for not informed of reasons. Appellants prayed for setting aside the impugned order passed by learned Single Judge as well as quashment of the office order dated 22.02.2022 qua BMHRC, Bhopal.

9. Ms.Kanak Gaharwar, Advocate appearing on behalf of the respondent no.4, submits that Ex-servicemen and Ex-paramilitary personnel are well trained persons and are able to handle with any kind of security threat. ICMR has issued the direction to replace the Security Guards of BMHRC with Ex-Army Personnel for securing the premises and sensitive sections of the department. The decision has not been taken only in respect of BMHRC but as many as 14 institutes have been classified as High Priority Security Cover and 14 as Moderate Security Cover. For Moderate Security Cover, 60% Security Guards will be of Ex-servicemen or Ex-paramilitary personnel and 40% of trained civilian staff will be permissible. The decision has been taken considering the security threats to the centres and the appellants cannot raise any objection to the policy decision of ICMR. The allegation of violation of Articles 14 and 21 of the Constitution of India is baseless. The appellants were working on the basis of contract and the period of contract has already been expired and since 2022 the appellants are working on the strength of interim order earlier passed by the writ court and thereafter by this Court. The appellants cannot



claim any right from the BMHRC as they have been engaged by the Contractors. There is no direct employee/employer relation between the appellants and BMHRC. The decision taken by ICMR and consequent order dated 20.02.2022 is of administrative nature, not involving any change in the rules and, therefore, there is no scope for judicial review of the said decision.

**10.** Learned counsel relied on the judgment of the Supreme Court delivered in the matter of *Directorate of Film Festivals and others Vs. Gaurav Ashwin Jain and others*, reported in (2007) 4 SCC 737; wherein the Supreme Court has held that the scope of judicial review of Governmental policy is now well defined and Courts do not and cannot act as Appellate Authority examining the correctness, suitability and appropriateness of a policy, nor are Courts advisors to the executive on matters of policy, which the executive is entitled to formulate. The scope of judicial review of government policy is very limited and while scrutinizing a governmental policy in exercise of judicial review, what is required to be checked, whether it is violative of fundamental rights of the citizens or is opposed to the provisions of the constitution or oppose to any statutory provision or manifestly arbitrary. The Courts cannot interfere in the policy either on the ground that it is erroneous or on the ground that a better, fairer or viser alternative is available. Legality of the policy and not the wisdom or soundness of policy may be subject to judicial review. On these grounds, respondent prays for dismissal of the appeal.

**11.** Heard the learned counsel for the parties and perused the record.

**12.** Bhopal Memorial Hospital and Research Centre, Bhopal (BMHRC, Bhopal) was constituted for the purpose of health care of the affected gas victims under control of department of Health Research and Ministry of Health and Family Welfare, Government of India. Indian Council of



Medical Research (ICMR) is the apex body. As most of ICMR Institutes/Centres are dealing with biological agents and few have Bio Safety Level (BSL) -3 and 4 labs and some of the Institutes/Centres are also handling radioactive materials, risk to a Bio Lab that handles infectious and unknown etiology agents radioactive material etc. is very high and considering the same ICMR has classified its Institutes/Headquarters/Centres in two categories; (i) High Priority Security Cover (ii) Moderate Security Cover and issued a direction to engage the security agencies for its centres. On 22.02.2022 ICMR issued the impugned order, which reads as under :-

No. 19/20/2019 Admn.I  
INDIAN COUNCIL OF MEDICAL RESEARCH  
V. Ramalingaswami Bhawan

Ansari Nagar, New Delhi  
Dated: 22.02.2022

#### OFFICE ORDER

It is observed that Security Personnel have been engaged in ICMR Institutes/Hqrs. either from DGR or other agencies, as per the present guidelines, following GFR 2017 norms that are mandatory for hiring of Security Services in ICMR.

2. Most of our ICMR Institutes/ Centres are dealing with biological agents and few have Bio safety Level (BSL)-3 lab and one Institute has BSL-4 High Containment Lab. Few more BSL-3 & 4 labs are being constructed for ICMR. Some of the Institutes/Centres are also handling radioactive materials. Risk to a Bio Lab that handles infectious and unknown etiology agents, radioactive material etc, broadly includes:

- Sabotage of chemicals, biological and radioactive or proprietary;
- Disruption to critical or high-value equipment;
- Threats from activist groups;
- Deliberate exposure to hazardous materials;
- Loss or release of sensitive information; and
- Unauthorized laboratory experimentation



Though hiring of Security Services from DGR is not a mandatory requirement for ICMR, but keeping in view of the present security threats and bio hazards, visit of foreign delegates and WIP, the ICMR Hqs/Institutes/Centres have been classified as under:

High Priority Security Cover		Moderate Security Cover	
1.	ICMR-NIV, Pune	1.	ICMR-NIE, Chennai
2.	ICMR-NIRT, Chennai	2.	ICMR-NIOP, New Delhi
3.	ICMR-NJIL & OMD, Agra	3.	ICMR-NIMR, New Delhi
4.	ICMR-RMRC, Bhubneshwar	4.	ICMR-NIN, Hyderabad
5.	ICMR-RMRC, Gorakhpur	5.	ICMR-NICPR, Noida
6.	ICMR-RMRC, Dibrugarh	6.	ICMR-NIOH, Ahmedabad
7.	ICMR-RMRC, Port Blair	7.	ICMR-NITM, Belagavi
8.	ICMR-NICED, Kolkata	8.	ICMR-NCDIR, Bengaluru
9.	ICMR-RMRIMS, Patna	9.	ICMR-NIREH, Bhopal
10.	ICMR-VCRC, Puduchery	10.	ICMR-NARFBR, Hyderabad
11.	ICMR-NARI, Pune	11.	ICMR-NIRTH, Jabalpur
12.	ICMR-BMHRC, Bhopal	12.	ICMR-NIIRNCD, Jodhpur
13.	ICMR Headquarters	13.	ICMR-NIRRH, Mumbai
14.	ICMR-NIMS, New Delhi	14.	ICMR, NIIH, Mumbai

(i) For High Priority Security Cover To engage the security agencies enlisted by the Directorate General of Resettlement (DGR), through GeM portal, with 100% staff from Ex-service or Ex-paramilitary persons.

(ii) For Moderate Security Cover To engage the security agencies, through GeM portal, with 60% Ex-service or Ex-paramilitary persons and 40% trained civilian security staff.

iii) Depending upon the local needs, lady security staff can also be engaged, complying with the above criteria.

3. In case the DGR enlisted Security Services are not available through GeM, selection has to be done following GeM enabled system, as per norms.

This issue with the approval of DG, ICMR

L22102/2022 XOC 22/02/2022

Dr. R. Lakshminarayanan



Deputy Director General (Admn.)

## Distribution:

1. The Directors/Director-In-charge of Permanent Institutes/Centres of ICMR
2. PS to DG/Addl. DG/Sr. DDG (A)/Sr. FA, ICMR
3. Heads of all Divisions/Sections
4. DDG (A)/ADG (A)/ADG (F)
5. All Sr. AO/Sr. ACO of ICMR Hars
6. Admin II
7. Central Procurement Cell, ICMR Hars
8. Dr. L.K. Sharma. Scientist-E-for copy of the same has been mailed at your email ID (Sharma. lk@icmr.org.in) for website upload.
9. Guard file

**13.** The first ground of attack to the aforesaid order is that the said order is violative to the fundamental rights of the appellants as by the said order ICMRS has issued directions to engage Ex-servicemen and Ex-paramilitary persons as Security Guards. There is no substance in the allegation of violation of fundamental rights as ICMR has classified the Centres in two categories and for the category of Moderate Security Cover, ICMR has permitted 40% trained civilian security staff and, therefore, this argument is not acceptable. Secondly, ICMR has given valid rationale for engaging Ex-servicemen or Ex-paramilitary persons for High Priority Security Cover and, therefore, the order cannot be treated as arbitrary. The appellants were engaged by the security agencies and they are working under the security agencies and the contract period of these agencies have already been expired, therefore, the appellants cannot claim any equity. The order has not been issued in respect of BMHRC, Bhopal only rather it has been issued in respect of all the ICMR Institutes. ICMR has assigned the reasons for considering the BMHRC, Bhopal as High Priority Security Cover, which appears to be plausible and appropriate. Even otherwise, it is



the prerogative of an Institute to engage any class of security personnel to ensure the security of the Institute.

**14.** Learned Single Judge has rightly held that the scope of judicial review of Governmental policy is very limited and the Courts cannot act as appellate authority examining the correctness, suitability and appropriateness of a policy. Now it is settled position of law that Court can only examine the legality of the policy and not the wisdom and soundness of the policy.

**15.** Considering the aforesaid, we are in full agreement with the view taken by the learned Single Judge that BMHRC is competent to engage security agencies as per the order issued by ICMR and the decision of ICMR does not suffer from any arbitrariness and it does not call for any indulgence. The findings recorded by the learned Single Judge are based on due appreciation of material available on record and we are in full agreement with the findings recorded by the learned Single Judge.

**16.** Consequently, the appeal sans merits and is hereby dismissed. No order as to costs.

**(SANJEEV SACHDEVA)**  
**CHIEF JUSTICE**

**(VINAY SARAF)**  
**JUDGE**

TG /-