IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI

ON THE 2nd OF FEBRUARY, 2024

WRIT PETITION No. 5856 of 2020

BETWEEN:-

DEVKARAN PATIDAR S/O SHRI DEVDAS PATIDAR, OCCUPATION: GRAM ROJGAR SAHAYAK(PRESENTLY TERMINATED), R/O GRAM PANCHAYAT GOLEWADI, JANPAD PANCHAYAT, TEHSIL SEGAON, DISTT-KHARGONE (MADHYA PRADESH)

.....PETITIONER

(SHRI RANJEET SEN, LEARNED COUNSEL FOR THE PETITIONER)

AND

1. **STATE OF M.P. THROUGH ITS PRINCIPAL SECRETARY, MINISTRY OF PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, PRINCIPAL SECRETARY VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**

2. **MADHYA PRADESH STATE EMPLOYMENT GUARANTEE COUNCIL THROUGH COMMISSIONER, PANCHAYAT AND RURAL DEVELOPMENT, NARMADA BHAWAN, IIND FLOOR, C-WING, 59, ARERA HILLS, BHOPAL (MADHYA PRADESH)**

3. **COLLECTOR, KHARGONE, DISTRICT KHARGONE (MADHYA PRADESH)**

4. **ZILA PANCHAYAT KHARGONE THROUGH CHIEF EXECUTIVE OFFICER, ZILA PANCHAYAT OFFICE KHARGONE, (MADHYA PRADESH)**

5. **JANPAD PANCHAYAT SEGAON THROUGH ITS CHIEF EXECUTIVE OFFICER JANPAD SEGAON, DIST KHARGONE (MADHYA PRADESH)**

6. **GRAM PANCHAYAT GOLEWADI, THROUGH SARPANCH/SECRETARY TEHSIL KHARGONE, DIST KHARGONE (MADHYA PRADESH)**

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.....RESPONDENTS

(SHRI KOUSTUBH PATHAK, LEARNED GOVT. ADVOCATE FOR THE RESPONDENT/STATE)

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

ORDER

Heard finally with the consent of both the parties.

This petition has been filed by the petitioner challenging the orders dated 12.06.2017(Annexure-P/1) and 27.08.2016(Annexure-P/2), passed by the respondent Nos.3 and 4 whereby the service of the petitioner has been terminated from the post of Gram Rozgar Sahayak of Gram Panchayat Golewadi.

2. That the petitioner was initially appointed as Gram Rozgar Sahayak in Gram Panchayat, Golewadi, Janpad Panchayat Segaon, District Khargone. The petitioner was regularly working on the post of the aforesaid post at Gram Panchayat Golewadi. The Madhya Pradesh State Employment Guarantee Council, which is an organization constituted under the Panchayat and Rural Development Department of State Government of Madhya Pradesh had issued the direction for appointment/ Discipline/Control of the Gram Rozgar Sahayak in every Gram Panchayat in the State of Madhya Pradesh. The respondent no.4 issued the impugned termination order dated 27.08.2016 alleging certain irregularities in the work of construction of road in the Gram Panchayat, Golewadi and enquiry was also conducted by the respondent no.4 and as a result of which, a show cause notice was issued to the petitioner. The petitioner has submitted his reply and denied the allegation levelled in the show cause and also assigned the reasons in respect of the alleged misconduct.

3. That, as per M.P. State Employment Guarantee Council, which is an

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organization constituted under the Panchayat and Rural Development Department of State Government, has issued the direction for appointment / discipline/ control of the Gram Rozgar Sahayak in every Gram Panchayat in the State of M.P. and as per the Clause 15 of the aforesaid circular, the Program Officer of Janpad Panchayat is the Administrative Controlling Authority and as per Clause – 15.2 the Collector is empowered to terminate the services of the Gram Rozgar Sahayak, and as per Clause 16 of the aforesaid rules, it is the Gram Panchayat who can terminate the service of the Gram Rozgar Sahayak in Special conditions, but in the present case all these legal fiction/situation have not been followed by the respondent no.4. and the impugned terminated order dated 27.08.2016, has been passed by the respondent no.4, which has been wrongly uphold by the respondent Nos.2 and 3. Being aggrieved with the said order(s) the petitioner has filed the present petition.

4. Learned counsel for the petitioner submits that the impugned orders are illegal and arbitrary. He further submits that the respondent no.4 without considering the provisions of 15.01, 15.02 and 16 of the scheme according to which the respondent no.4, is not empowered to terminate the service of the petitioner, and the aforesaid impugned order Annexure-P/1 has been wrongly uphold. He further submits that the respondents have acted in high handed manner and without following the instructions/guidelines issued by the Higher Authorities, issued the impugned termination order. Thus, the action of the respondents is unjust and arbitrary. In the present case, neither any charge-sheet has been issued against the petitioner nor any enquiry has been conducted before passing of the impugned stigmatic order. In such circumstances, he prays that the impugned orders be set aside. He further relied on the judgment

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passed by this Court in the case of ***Rahul Tripathi vs. Rajeev Gandhi Shiksha Mission, Bhopal 2001 (3) MPLJ 616 and Prakash Chandra Kein vs. State of M.P. and others 2010 (3) MPLJ 179.***

5. The respondents have filed the reply and has submitted that a number of complaints has been received against the petitioner. After receiving the complaints a Committee was constituted for conducting an enquiry against the petitioner and on the basis of the enquiry report submitted by the Committee a show cause notice was issued to the petitioner and after giving opportunity to the petitioner to file reply, the respondent has terminated the services. In such circumstances, the petition deserves to be dismissed.

6. Heard learned counsel for the parties and perused the record.

7. In the present case, admittedly, the petitioner is working on the post of Gram Rojgar Sahayak and neither any charge-sheet has been issued to the petitioner at any point of time nor any enquiry was conducted with the participation of the petitioner. This Court has passed the judgment in the case of ***Ramchandra vs. State of M.P. and others decided in W.P. No.16572/2014 on 02/08/2017*** and several other writ petitions on the subject are under consideration before this Court.

8. In the light of the aforesaid as no charge-sheet was issued to the petitioner and no enquiry has been conducted, the impugned orders dated 12.06.2017(Annexure-P/1) and 27.08.2016(Annexure-P/2), passed by the respondents deserves to be quashed and are accordingly, quashed. The respondents are directed to reinstate the petitioner in service; however a liberty is granted to proceed against the petitioner in accordance with law, in case if need so arises in future.

9. With the aforesaid, the present writ petition stands disposed of. No

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order as to costs.

Certified copy as per rules.

(S. A. DHARMADHIKARI)
JUDGE

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