IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 9th OF JANUARY, 2024

WRIT PETITION No. 102 of 2024

BETWEEN:-

DEEPA KAPOOR W/O SHRI MUKESH KAPOOR, AGED ABOUT 61 YEARS, OCCUPATION: ASSISTANT ARCHITECT MADHYA PRADESH HOUSING AND INFRASTURCTURE DEVELOPMENT BIOARD BHOPAL R/O B-207 MAHADEV PARISAR SHIVAJI NAGAR BHOPAL (MADHYA PRADESH)

.....PETITIONER

(BY SHRI QASIM ALI - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY DEPARTMENT OF URBAN DEVELOPMENT AND HOUSING MANTRALAYA VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **M.P. HOUSING AND INFRASTRUCTURE DEVELOPMENT BOARD THROUGH CHIRMAN ADRESS 4TH FLOOR PARYAWAS BHAWAN JAIL ROAD ARERA HILLS BHOPAL (MADHYA PRADESH)**

3. **THE COMMISSIONER MADHYA PRADESH HOUSING AND INFRASTRUCTURE DEVELOPMENT BOARD ADDRESS 4TH FLOOR PARYAWAS BHAWAN JAIL ROAD ARERA HILLS BHOPAL 462011 (MADHYA PRADESH)**

.....RESPONDENTS

(RESPONDENTS/STATE BY SHRI PUNIT SHROTI - GOVERNMENT ADVOCATE)

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

ORDER

Learned counsel for the petitioner, by the instant petition filed under Article 226 of the Constitution of India, is challenging the order passed by the Commissioner, M.P. Housing board, in the capacity of appellate authority on 12.10.2023 (Annexure-P/4) whereby the authority has rejected the appeal of the petitioner preferred against her order of punishment. He submits that the petitioner being an employee of M.P. Housing Board was subjected to disciplinary proceeding and the disciplinary authority i.e. Commissioner, M.P. Housing Board passed an order in the said proceeding on 30.06.2023 (Annexure-P/5) inflicting punishment upon the petitioner. Thereafter, an appeal was preferred, but since it was not being decided, therefore, the petitioner preferred a petition before this Court i.e. W.P. No.20976/2023 for early disposal of her appeal which vide order dated 29.08.2023 got disposed of directing the appellate authority to take a decision on the petitioner's appeal within a period of 60 days from the date of production of certified copy of the order. He submits that thereafter, the Commissioner, M.P. Housing Board, who being a disciplinary authority has passed the order dated 30.06.2023 (Annexure-P/5) against the petitioner inflicting punishment upon her treating himself to be an appellate authority has rejected the appeal of the petitioner. He submits that apparently, the impugned order passed by the appellate authority is illegal for the reason that a person cannot be the judge of his own cause. According to him, the appellate authority is the Chairman, M.P. Housing Board and instead of Commissioner, M.P. Housing Board, the appeal should have been decided by the Chairman, M.P. Housing Board, but the disciplinary authority treating himself to be the appellate authority has decided the petitioner's appeal which is improper.

2. Considering the arguments advanced by learned counsel for the petitioner and on perusal of record, I am of the opinion that the mistake and illegality committed by the authority is apparent and, therefore, I am setting aside the order dated 12.10.2023 (Annexure-P/14) directing the appellate authority who according to counsel for the petitioner is Chairman, M.P. Housing Board, to decide the petitioner's appeal afresh without being influenced with the order passed by the Commissioner, M.P. Housing Board, in accordance with law as per its own merits, within a period of 60 days from today and pass an appropriate order thereon.

3. However, it is directed till the petitioner's appeal is decided, the order passed in the execution proceeding initiated in pursuance to order dated 12.10.2023 (Annexure-P/14) shall remain stayed.

4. With the aforesaid, the petition filed by the petitioner stands **allowed** and **disposed of**.

(SANJAY DWIVEDI)
JUDGE

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