IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 12th OF JANUARY, 2024

WRIT PETITION No. 11241 of 2018

BETWEEN:-

SHARDA PRASAD SHUKLA S/O SHRI NATTHU LAL SHUKLA, AGED ABOUT 41 YEARS, OCCUPATION: ROJGAR SAHAYAK GRAM PANCHAYAT MAHDEVA, JANPAD PANCHAYAT BEOHARI DIST. SHAHDOL. (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VISHNU DEO SINGH CHAUHAN - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THR. SECRETARY PANCHAYAT DEPARTMENT VALLABH BHAWAN BHOPAL VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**

2. **COLLECTOR/DISTRICT PROGRAM COORDINATOR SHAHDOL DISTT-SHAHDOL (MADHYA PRADESH)**

3. **CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT DISTT-SHAHDOL (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT BEOHARI DISTT-SHAHDOL (MADHYA PRADESH)**

5. **SECRETARY, GRAM PANCHAYAT MAHDEVA JANPAD PANCHAYAT BEOHARI, (MADHYA PRADESH)**

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 10635 of 2018

BETWEEN:-

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MUKESH KUMAR KORI S/O SHRI RAMADHAR KORI, AGED ABOUT 30 YEARS, OCCUPATION: GRAM ROJGAR SAHAYAK POSTED GRAM PANCHAYAT MAGARDHA JANPAD PANCHAYAT BEOHARI DISTT. SHAHDOL (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VISHNU DEO SINGH CHAUHAN - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THR THE SECRETARY PANCHAYAT DEPT. VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**

2. **COLLECTOR/DISTRICT PROGRAM COORDINATOR SHAHDOL SHAHDOL (MADHYA PRADESH)**

3. **CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT SHAHDOL (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT BEOHARI SHAHDOL (MADHYA PRADESH)**

5. **SECRETARY GRAM PANCHAYAT MAGARDAHA JANPAD PANCHAYAT BEOHARI (MADHYA PRADESH)**

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 11242 of 2018

BETWEEN:-

BRIJESH KUMAR DWIVEDI S/O SHRI BUDDHSEN DWIVEDI, AGED ABOUT 41 YEARS, OCCUPATION: GRAM ROJGA SAHAYAK GRAM PANCHAYAT NAUDHIYA JANPAD PANCHAYAT, BEOHARI DIST. SHAHDOL (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VISHNU DEO SINGH CHAUHAN - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THR. SECRETARY PANCHAYAT DEPARTMENT**

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VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)

2. **COLLECTOR CUM DISTT. PROGRAMME COORDINATOR SHAHDOL DISTT. SHAHDOL (MADHYA PRADESH)**

3. **CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT DISTT. SHAHDOL (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER JANPAND PANCHAYAT BEOHARI DISTT. SHAHDOL (MADHYA PRADESH)**

5. **SECRETARY GRAM PANCHAYAT NAUDHIYA JANPAD PANCHAYAT BEOHARI DISTT. SHAHDOL (MADHYA PRADESH)**

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 11243 of 2018

BETWEEN:-

RAM PRASAD SAHU S/O SHRI KEMLA PRASAD SAHU, AGED ABOUT 33 YEARS, OCCUPATION: GRAM ROJGAR SAHAYAK, POSTED GRAM PANCHAYAT KHAIRA JANAPAD PANCHAYAT BEOHARI, SHAHDOL (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VISHNU DEO SINGH CHAUHAN - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THR. THE SECRETARY PANCHAYAT DEPARTMENT VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**

2. **COLLECTOR/ DISTRICT PROGRAM COORDINATOR SHAHDOL DISTT-SHAHDOL (MADHYA PRADESH)**

3. **CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT DISTT-SHAHDOL (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT**

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BEOHARI DISTT-SHAHDOL (MADHYA PRADESH)

5. SECRETARY, GRAM PANCHAYAT KHAIRA JANPAD PANCHAYAT BEOHARI, (MADHYA PRADESH)

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 11244 of 2018

BETWEEN:-

RAJESH KUMAR MISHRA S/O SHRI UDHAYBHAN MISHRA, AGED ABOUT 34 YEARS, OCCUPATION: GRAM ROJGAR SAHAYAK, POSTED GRAM PANCHAYAT - KUWA MAGARDAHA JANPAD PANCHAYAT BEOHARI (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VISHNU DEO SINGH CHAUHAN - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. THE SECRETARY PANCHAYAT DEPARTMENT VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)

2. COLLECTOR / DISTRICT PROGRAMME COORDINATOR SHAHDOL SHAHDOL (MADHYA PRADESH)

3. CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT SHAHDOL (MADHYA PRADESH)

4. CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT BEOHARI (MADHYA PRADESH)

5. SECRETARY GRAM PANCHAYAT KUWA JANPAD PANCHAYAT SHAHDOL (MADHYA PRADESH)

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 13232 of 2018

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BETWEEN:-

AJAY KUMAR PATEL S/O BAIJNATH PATEL, AGED ABOUT 41 YEARS, OCCUPATION: GRAM ROJGAR SAHAYAK POSTED GRAM PANCHAYAT BARHOTOLA GRAM PANCHAYAT BARHOTOLA, JANPAD PANCHAYAT BEOHARI (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VISHNU DEO SINGH CHAUHAN - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH THE SECRETARY PANCHAYAT DEPARTMENT VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**

2. **COLLECTOR/DISTRICT PROGRAM COORDINATOR SHAHDOL SHAHDOL (MADHYA PRADESH)**

3. **CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT SHAHDOL (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT BEOHARI SHAHDOL (MADHYA PRADESH)**

5. **SECRETARY GRAM PANCHAYAT BARHATOLA JANPAD PANCHAYAT BEOHARI (MADHYA PRADESH)**

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 13235 of 2018

BETWEEN:-

ARVIND KUMAR PATEL S/O RAMSUNDER PATEL, AGED ABOUT 29 YEARS, OCCUPATION: GRAM ROJGAR SAHAYAK POSTED GRAM PANCHAYAT MAOO JANPAD PANCHAYAT BEOHARI, (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VISHNU DEO SINGH CHAUHAN - ADVOCATE)

AND

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1. **THE STATE OF MADHYA PRADESH THROGUH SECRETARY PANCHAYAT DEPARTMENT VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**

2. **COLLECTOR/DISTRICT PROGRAM COORDINATOR SHAHDOL SHAHDOL (MADHYA PRADESH)**

3. **CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT SHAHDOL SHAHDOL (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT BEOHARI SHAHDOL (MADHYA PRADESH)**

5. **SECRETARY GRAM PANCHAYAT MAOO JANPAD PANCHAYAT BEOHARI SHAHDOL (MADHYA PRADESH)**

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 2081 of 2019

BETWEEN:-

SMT. SUNEETA PANDEY W/O SHRI PRAMOD KUMAR PANDEY, AGED ABOUT 31 YEARS, OCCUPATION: EMPLOYMENT ASSISTANT SECRETARY GRAM PANCHAYAT BAGHMADA BLOCK RAIPUR KARCHULIYAN REWA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI AJEET KUMAR SINGH - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH SECRETARY VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **COMMISSIONER M.P.RAJYA ROJGAR GUARANTEE PARISHAR NARMANDA BHAWAN, IIND FLOOR, C WING 59, ARERA HILLS (MADHYA PRADESH)**

3. **C O L L E C T O R /DISTRICT PROGRAM C O O R D I N A T O R DISTT-REWA (MADHYA PRADESH)**

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4. CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT DISTT-REWA (MADHYA PRADESH)

5. CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT RAIPUR KARCHULIYAN DISTT-REWA (MADHYA PRADESH)

6. GRAM PANCHAYAT BAGHMADA THR. ITS SECRETARY BLOCK RAIPUR KARCHULIYAN, DISTT. REWA (MADHYA PRADESH)

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 3160 of 2019

BETWEEN:-

MAYANK MISHRA S/O SHRI SHANKHADHAR MISHRA, AGED ABOUT 33 YEARS, OCCUPATION: GRAM ROJGAR SAHAYAK POSTED GRAM PANCHAYAT MAURAA JANPT PANCHAYAT RAMPUR NIKIN DISTT. SIDHI M.P. (MADHYA PRADESH)

.....PETITIONER

(BY SHRI YADVENDRA DWIVEDI - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. THE SECRETARY PANCHAYAT DEPARTMENT VALLABH BHAWAN BHOPAL M.P. (MADHYA PRADESH)

2. COLLECTOR / DISTRICT PROGRAM COORDINATOR SIDHI DISTT-SIDHI (MADHYA PRADESH)

3. CHIEF EXECUTIVE OFFICER ZILA PANCAHAYAT RAMPUR NAIKIN DISTT-SIDHI (MADHYA PRADESH)

4. CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT RAMPUR NAIKIN DISTT-SIDHI (MADHYA PRADESH)

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

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WRIT PETITION No. 5732 of 2019

BETWEEN:-

ASHOK KUMAR YADAV S/O SHRI JAMUNA PRASAD YADAV, AGED ABOUT 32 YEARS, OCCUPATION: POSTED AS GRAM ROJGAR SAHAYAK BHITARI JANPAD PANCHAYAT RAMPUR NAIKIN SIDHI R/O VILLAGE AND POST BHITARI P. S. AND TEHSIL RAMPUR NAIKIN (MADHYA PRADESH)

.....PETITIONER

(BY SHRI YADVENDRA DWIVEDI - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THR. SECRETARY PANCHAYAT AND RURAL DEVELOPMENT MANTRALAYA, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **COLLECTOR CUM DISTRICT PROGRAMME COORDINATOR SIDHI DISTT. SIDHI MP (MADHYA PRADESH)**

3. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT RAMPUR NAIKIN DISTT SIDHI MP (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT SIDHI DISTT SIDHI MP (MADHYA PRADESH)**

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 7325 of 2019

BETWEEN:-

HARSHIT PANDEY S/O SHRI JAI KRISHNA PANDEY, AGED ABOUT 28 YEARS, OCCUPATION: EX SUB ENGINEER (ON CONTRACT) JANPAD PANCHAYAT RAMPUR NAIKIN DISTT. SIDHI R/O. GRAM PANCHAYAT DHOBHAT POST AMARPATAN DISTT. SATNA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI YADVENDRA DWIVEDI - ADVOCATE)

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AND

1. **THE STATE OF MADHYA PRADESH THR PRINCIPAL SECRETARY PANCHAYAT AND RURAL DEVELOPMENT DEPT. VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **MADHAYA PRADESH ROJGAR GUARANTEE PARISHAD THROUGH THE COMMISSIONER NARMADA BHAOWAN 2ND FLOOR, C WING , 59 ARERA HILLS (MADHYA PRADESH)**

3. **COLLECTOR SIDHI SIDHI DISTT. SIDHI (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER CUM ADDITIONAL DISTRICT PROGRAMME COORDINATOR MNREGA ZILA PANCHAYAT SIDHI (MADHYA PRADESH)**

5. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT JANPAD PANCHAYAT RAMPUR NAIKIN, ZILA PANCHAYAT SIDHI (MADHYA PRADESH)**

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 9980 of 2019

BETWEEN:-

SITLESH KUMAR GUPTA S/O SHRI KAMLESH GUPTA, AGED ABOUT 33 YEARS, OCCUPATION: GRAM ROJGAR SAHAYAK GRAM PANCHAYAT DARON JANPAD PANCHAYAT JAISINGH NAGAR SHAHDOL (MADHYA PRADESH)

.....PETITIONER

(NONE FOR THE PETITIONER)

AND

1. **THE STATE OF MADHYA PRADESH THR PRINCIPAL SECRETARY PANCHAYAT AND RURAL DEVELOPMENT DEPT. VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **COLLECTOR JISINGH NAGAR DISTT-SHAHDOL (MADHYA PRADESH)**

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3. **CHIEF EXECUTIVE OFFICER ZILA PANCHAYAT JAISINGH NAGAR , (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT JAISINGH NAGAR , (MADHYA PRADESH)**

5. **PROGRAMME OFFICER M.G.N.R.E.G.A. JANPAD PANCHAYAT JAISINGH NAGAR (MADHYA PRADESH)**

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

WRIT PETITION No. 20802 of 2019

BETWEEN:-

DEVENDRA KUMAR PATEL S/O SHRI VINAYAK PRASAD PATEL, AGED ABOUT 35 YEARS, OCCUPATION: EX. GRAM ROJGAR SAHAYAK GRAM PANCHAYAT TENDUAD, JANPAD PANCHAYAT JAISINGHNAGAR, DIST. SHAHDOL R/O VILLAGE TENDUAR, JANPAD PANCHAYAT JAISINGHNAGAR, DISTT. SHAHDOL (M.P.) (MADHYA PRADESH)

.....PETITIONER

(BY SHRI YADVENDRA DWIVEDI - ADVOCATE)

AND

1. **STATE OF MADHYA PRADESH THR. PRINCIPAL SECRETARY PANCHAYAT AND RURAL DEVE. DEPTT. VALLABH BHAWAN BHOPAL (M.P.) (MADHYA PRADESH)**

2. **MP ROJGAR GUARANTEE PARISHAD THROUGH COMMISSIONER NARMADA BHAWAN 2ND FLOOR C WING 59 ARERA HILLS (MADHYA PRADESH)**

3. **COLLECTOR SHAHDOL DISTT. SHAHDOL (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER CUM ADDITIONAL DISTRICT PROGRAMME COORDINATOR MNREGA ZILA PANCHAYAYT DISTT. SHAHDOL (MADHYA PRADESH)**

5. **PROGRAME OFFICER AND CHIEF EXECUTIVE OFFICER AND MNREGA JANPAND PANCHAYAT**

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JAISINGHNAGAR ZILA PANCHAYAT DISTT. SHAHDOL (MADHYA PRADESH)

6. CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT JAISINGHNAGAR DISTT. SHAHDOL (MADHYA PRADESH)

.....RESPONDENTS

(MS. SHRADDHA TIWARI - PANEL LAWYER)

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

ORDER

The present petitions have been filed challenging the order of termination passed by the Chief Executive Officer, Janpad Panchayat whereby the services of the petitioners in the batch of petitions have been terminated from the post of Gram Rojgar Sahayak as all the cases involved consideration of same policy of the State Government and in view of the similarity of facts, these petitions have been taken up and decided by this common order. For the sake of convenience, facts are taken from W.P No.10635/2018.

2. Counsel for the petitioners submits that the petitioner was appointed on the post of Gram Rojgar Sahayak vide order dated 04.05.2018. Learned counsel for the petitioner further submits that though the posts are contractual one but, the scheme of MNREGS under which the Gram Rojgar Sahayaks are appointed is continued till date and the services of Gram Rojgar Sahayak in the entire State are being continued till date.

3. It is submitted by learned counsel for the petitioners that the petitioners was duly performing his duties as Gram Rojgar Sahayak and as a bolt from blue the order Annexure-P/1 dated 04.05.2018 was issued by Chief Executive Officer, Janpad Panchayat whereby the services of the petitioner have been terminated. It is on the allegation that the progress of work in Gram

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Panchayat is not as per the expectations and targets. The progress of work is too slow which indicates his indiscipline and negligence towards performance of his duties. It is submitted that no opportunity of hearing was given prior to terminating the services of the petitioners. It is contended that leave alone any departmental enquiry or primary enquriy of any kind, not even any show cause notice against the termination of services was given to the petitioner. The order is assailed on the sole ground of failure to observe principles of natural justice by denial of opportunity of hearing.

4. In some of the cases in these batches of petitions show cause notices are on record but it is seen that such show cause notices are not against termination but such notices are to speed up the work and it is mentioned that upon failure to speed up the work proposal for termination would be sent to the competent authority.

5. The petitioners have also raised ground of competence of Chief Executive Officer, Janpad Panchayat to terminate the services of Gram Rojgar Sahayak. However, in view of subsequent circular of Madhya Pradesh Rajya Rojgar Guarantee Parishad dated 03.06.2017, the Chief Executive Officer, Janpad Panchayat has been vested with powers to terminate the services of Gram Rojgar Sahayak. In view of the circular dated 0306.2017, the issue of competence of Chief Executive Officer, Janpad Panchayat pales into insignificance.

6. Per contra, learned counsel for the State by countering the argument advanced on behalf of petitioners as to denial of opportunity of hearing, submits that the petitioners were only holding a contractual posts, it is further stated that the progress of works under the charge of petitioners up to the mark, rather it was extremely poor. The petitioners were asked to get the works speed

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it up but despite that as the progress of works remained poor, the services of the petitioners have to be terminated.

7. Heard learned counsel for the parties and considered rival submissions.

8. Learned counsel for the petitioners have relied upon a judgment of Coordinate Bench of this Court in the case of **Ramcharan Versus State of M.P. & Others** passed in **W.P. No.16572/2014 on 02.08.2017,** the following has been held therein.

> "11. After hearing learned counsel for the parties and on perusal of the undisputed facts of the present cases, it is not in dispute that the petitioners were engaged either as Gram Rojgar Sahayak or Sub-Engineers or Assistant Wardens under the Scheme prepared by Madhya Pradesh Rajya Rojgar Guarantee Parishad and as per Clause 16, how the services of those persons can be terminated, has not been disputed.
>
> 12. On perusal of Clause 16 of Madhya Pradesh Rajya Rojgar Guarantee Parishad, it is apparent that in case of irregularities, dereliction in discharge of the duties and culpable negligence on proving their services may be terminated. However, the core question is how those allegations can be proved. As the petitioners are contract employees, therefore, for any allegation, an opportunity of hearing may be given to them. This opportunity would be at the stage when the fact finding inquiry is being prepared by the officers on imputation of the allegations against them or at the stage of show cause. If a person has been given an opportunity of hearing while preparing the fact finding inquiry and thereafter their services may be terminated giving a show cause notice to him.
>
> 13. In the present cases, the respondents have received a fact finding inquiry report against the petitioners without giving an opportunity to defend on the allegation at the time of preparation of the inquiry report and now by issuing a show cause notice, the order of termination has been passed. The aforesaid recourse cannot be recognized in view of the judgment rendered by this Court in the case of Rahul Tripathi (supra) and also in violation of principle of natural justice.
>
> 14. Insofar as the judgment of Rajendra Prasad Bakoriya (supra) is concerned; it is a case wherein the order of termination is passed invoking condition No.6 of the appointment order. However, in the said context, this Court has dealt with the issue of contract employment referring the judgment of S.N.Goyal (supra). It is to be noted here that it

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is a case wherein the imputation of allegation of irregularities or committing misconduct has been alleged to which inquiry ought to be conducted. It is explained that the said inquiry may not be akin to the inquiry contemplated for the regular employees as specified under the Madhya Pradesh Civil Services (Classification, Control & Appeal) Rules, 1966 but the principle of natural justice ought to be observed to the misconduct, which is alleged against them, affording an opportunity at the time of preparing the foundation for their termination. It is a case wherein to prepare the foundation of termination, the opportunity of hearing has not been given to the petitioners, therefore, relying upon the judgment rendered in the case of Rahul Tripathi (supra), these appear to be the fit cases wherein the order of termination may be quashed.

15. At this stage, the issue regarding completion of the contract period by the petitioners during the tenure of the stay order has been pressed upon by learned counsel for the respondents. In this regard, learned counsel for the petitioners has referred a Circular dated 6.7.2013 issued by the Government of Madhya Pradesh, Ministry of Panchayat & Gramin Vikas Vibhag, Bhopal and contended that now all the Gram Rojgar Sahayaks have been declared as Assistant Secretaries.

16. In this regard, it is suffice to observe here that the officers of the State Governments are at liberty to take recourse of law as permissible to them considering the Circular of the department or if they do not want to continue, it is with them to take a decision. This Court is having nothing to say on the said issue because the said issue is not res integra in the relief as prayed for in these petitions.

17. Accordingly, all these petitions succeed and are hereby allowed and the order of termination passed against the petitioners stand quashed. Except the petitioner of Writ Petition No.7684/2017, the other persons are continuing on the basis of the stay order. However, they be continued subject to decision by the authorities and the petitioner of Writ Petition No.7684/2017 be also reinstated if he is not in service. However, it is open to the respondents to take recourse of law in view of the foregoing observations and as per the procedure prescribed under the Scheme prepared by the Madhya Pradesh Rajya Rojgar Guarantee Parishad."

9. The aforesaid order has been consistently followed by Coordinate Benches of this Court in various cases. It is the consistent view of this Court in various cases including in W.P No.2423/2022 and 24239/2021, it has been held that grant of proper opportunity of hearing and enquiry by supplying relevant material on the basis of allegations leveled against the petitioners and granting opportunity to rebut the said material were essential before passing any order of

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termination.

10. The aspect of adequate opportunity of hearing was also considered by this Court in the case of **Manoj Vs. State of M.P and Others** reported in **(2022) 4 MPLJ 659,** wherein it has been held that even as per the subsequent circular dated 02.07.2020 though it may not be essential to carry out regular departmental enquiry but adequate opportunity of hearing has to be given to Gram Rojgar Sahayak prior to drastic order of termination of services. It has been held that even if the employee has been allowed to participate in preliminary enquiry, that may suffice. The following has been held in the aforesaid case.

> "13. So far as principle of denial of adequate opportunity of hearing is concerned, the circular dated 02.07.2020 which is in respect of contractual employee of Panchayat and Rural Development Department has clarified that in case of serious allegations show cause notice be issued and thereafter, appropriate opportunity of hearing be given to employer and after undertaking the inquiry in complete manner, then only termination order be passed. Therefore, as per guideline dated 2-7-2020 itself (Anneuxre P/10) twin requirements are :- (i) adequate opportunity of hearing and (ii) after completion of inquiry.
>
> 14. It nowhere contemplates that when any preliminary/technical inquiry is conducted then it should incorporate adequate opportunity of hearing at preliminary stage. It only contempletes that inquiry be conducted holistically and adequate opportunity be given to the employee therefore, contention of petitioner that necessarily regular departmental inquiry ought to have been held looses ground from the very guidelines itself. Guideline dated 2-7-2020 makes some amendments in earlier guideline dated 5.06.2018 and said guideline dated 5.6.2018 also comtemplates in similar manner specially Clause 1.14.1. Therefore, this Court cannot move out of the circular dated 5.6.2018 and circular dated 2.7.2020 (Annexure P/10) which are the governing executive instructions."

11. In the present case, there is no opportunity of hearing given to the petitioner. The order against the petitioner is that of termination of services which definitely entails civil consequences. The respondents have neither conducted any preliminary enquiry wherein the petitioners were allowed to

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participate, nor have conducted any regular enquiry. The order of termination is found to be vulnerable on ground of failure of adherence to principle of natural justice by not providing adequate opportunity of hearing.

12. The petitioners are stated to be in service on the strength of interim orders passed by this Court on earlier occasion. Resultantly, the impugned order of termination is set aside. The respondents are granted liberty to proceed against the petitioner afresh in accordance with law after affording adequate opportunity of hearing as per the prevailing policy to proceed against contractual employees. As the petitioners are stated to be in service, no orders on the aspects of back wages are required to be passed.

13. In terms of the aforesaid direction, these petitions are **allowed and disposed of.**

VIVEK JAIN)
JUDGE

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