IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 2nd OF FEBRUARY, 2024

WRIT PETITION No. 2460 of 2024

BETWEEN:-

SHYAM SUNDER AGARWAL S/O LATE SHRI DURGA PRASAD AGARWAL, AGED ABOUT 46 YEARS, OCCUPATION: IT OPERATOR O/O COMMERCIAL TAX OFFICE, JABALPUR CIRCLE II, COMMERCIAL TAX DEPARTMENT R/O NEAR COLLECTORATE GHANTAGHAR ROAD, JABALPUR (MADHYA PRADESH)

.....PETITIONER

(BY SHRI ANSHUMAN SINGH - ADVOCATE THROUGH VIDEO CONFERENCING ASSISTED BY SHRI VIRAJ SHANKAR JHA - ADVOCATE PRESENT IN COURT)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY COMMERCIAL TAX DEPARTMENT VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **THE COMMISSIONER, COMMERCIAL TAX DEPARTMENT INDORE (MADHYA PRADESH)**

3. **THE DEPUTY COMMISSIONER, COMMERCIAL TAX DEPARTMENT JABALPUR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI VIJAY KUMAR SHUKLA - PANEL LAWYER)

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

ORDER

This petition is filed challenging the order dated 19.09.2023 (Annexure P-7) and the order dated 09.01.2024 (Annexure P-8) passed by the respondent No.2.

Petitioner's contention is that the petitioner is working as I.T. Operator in the office of Commercial Tax Department, Jabalpur Circle 2, Jabalpur. According to him an advertisement was issued for filling up of the posts of Commercial Tax Inspector/ Tax

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Assistant as is contained in Annexure P-7 dated 19.09.2023. Petitioner is staking claim on the post of Tax Assistant in the garb of GAD circular dated 22.07.2023, Annexure P-6 wherein it is provided that some reservation is to be made in favour of the contractual employees for which the department will be obliged to determine the equivalence of the posts and thereafter in terms of the circular, posts which are found to be equivalent are to be filled by certain percentage of contractual employees.

When this Court categorically asked Shri Anshuman Singh, learned counsel appearing for the petitioner to point out as to what is the qualification of the petitioner and what is the qualification prescribed in the recruitment rules to fill up the post of Tax Assistant and how he fulfills the qualification, Shri Anshuman Singh placing reliance on clauses 1.2 and 1.3 of the GAD circular dated 22.07.2023, Annexure P-6 submits that the work of determining the equivalence is bestowed on the department and the petitioner has not brought that equivalence on record. When I expressed my disagreement with this argument and observed that it is the petitioner who has to prima facie establish that he fulfills the requirement for appointment on the post of Tax Assistant and if equivalence is not yet derived by the department then only he can seek indulgence of the Court, Shri Anshuman Singh prays for withdrawal of this petition with liberty to file properly constituted petition as and when he is able to establish the equivalence between the two.

Accordingly, the petition is dismissed as withdrawn with the aforesaid liberty.

(VIVEK AGARWAL)
JUDGE

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Signed by: KOUSHALENDRA SHARAN SHUKLA
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