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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VIVEK JAIN
ON THE 8th OF JANUARY, 2024
WRIT PETITION No. 13240 of 2008**

BETWEEN:-

**SMT. SUNITA YADAV W/O W/O RAM KRISHNA YADAV,
AGED ABOUT 31 YEARS, R/O MOHALLA RANIGANJ,
GARI KHANA, DISTRICT PANNA (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI AMIT KUMAR BAJPAI - ADVOCATE)

AND

- 1. THE CHIEF FOREST CONSERVATOR BHOPAL
DISTRICT BHOPAL (MADHYA PRADESH)**
- 2. THE CHIEF FOREST OFFICER CHHATARPUR
(MADHYA PRADESH)**
- 3. NODAL OFFICER CUM FOREST CIRCLE OFFICER
DISTT.PANNA (MADHYA PRADESH)**
- 4. JYOTI CHATURVEDI D/O ASHOK CHATURVEDI
PAN NO. 04525 (FOREST GUARD) DEPUTY D.F.O.
NORTH FOREST DIVISION PANNA (MADHYA
PRADESH)**
- 5. KU. ANURADHA VISHWAKARMA D/O RAM
VISHAL VISHWAKARMA IN THE OFFICE OF D.F.O.
SOUTH FOREST DIVISION (PRODUCTION) PANNA
(MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI AYUSH DEV BAJPAI - GOVERNMENT ADVOCATE)

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

ORDER

The present petition has been filed challenging Annexure P/7 which is

a merit list whereby various candidates have been selected on the post of Forest Guard in the year 2008.

2. Learned counsel for the petitioner submits that the petitioner had duly applied pursuant to the advertisement issued for appointment of the Forest Guard wherein she participated as candidate of OBC-Woman category.

3. The petitioner was given Roll No. PAN 00239 and the petitioner was selected in the written examination.

4. It is the case of the petitioner that the selection process comprised of four stages. First stage was written examination. The second stage was physical measurement. Third stage was physical proficiency test which was walking test of 14 kms. and the last and fourth stage was interview.

5. The sole dispute between the parties in the present case is that the petitioner has not been declared qualified in physical proficiency test for walking 14 kms. She has been held to be absent in the said test.

6. Learned counsel for the petitioner while referring to the document Annexure R/2 submits that initially the petitioner was made to appear along with male candidates in the physical proficiency test of walking, however, when the authorities realized that for male candidates walk test is of 25 kms. While walk test of female candidate is of 14 kms., hence, she was stopped from appearing along with male in the walking test. The first page of document, Annexure R/2 mentions the petitioner absent because all other candidates are male and she was erroneously called along with male candidates. The learned counsel for the petitioner while referring to page 23 of the same list contends that starting from page 22 of reply, there is a list of female candidates who appeared in walking test on 08.07.2008. It is the specific contention of the petitioner that her name

was included below the name of Sushila Singh who was at serial number 33 and a separate number 33-A was given and the test of petitioner was taken.

7. It is also contended by counsel for the petitioner that looking to the admission card Annexure P/4, token No. 104 has been issued to the petitioner and this token was issued only to those candidates who appeared in walking test on 08.07.2008. Learned counsel for petitioner further contends that despite having been issued token, no result of the petitioner for walking test has been prepared.

8. Learned counsel for State while opposing the petition submits that looking to the list of candidates vide Annexure R/2, it is clear that the petitioner was absent in the walking test which was held on 08.07.2008 at Panna. It is contended that as many as 274 candidates appeared in the walking test but the petitioner did not clear such test because she was absent.

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

10. The sole controversy in the present case is whether the petitioner had appeared in the walking test on 08.07.2008, or not. It is specific case of the petitioner in para 6 of the rejoinder that the name of the petitioner was written at the last of list of female candidates below the name of Sushila Singh. It is further contended that list as produced by the State authority does not clearly depict the correct position below the name of Sushila Singh as appearing at page 23 of the return of the respondents.

11. Thus, this court vide order dated 08.11.2012 had directed to produce the original record of selection. Today the original record has been produced in sealed cover by the counsel for State which is sent by Divisional Forest Officer, North Forest Division Panna, M.P. on 17.01.2013. The sealed cover was opened in the court and the original list was found inside the sealed cover.

12. Upon perusing the questioned page wherein the position of original record below the entry of Sushila Singh was to be seen, it is noted that there is manipulation and tampering in the original record. The portion of page about 1 cm from bottom has been shaved off by knife or blade. The height of this page is less than the height of other pages, By comparing this page available in the original record with the page as filed at page 23 of the return of the State, it is seen that while filing the reply some portion below the name of Sushila Singh was available but as the photocopy was slightly diagonal, the entire page was not photocopied and some portion below the name of Sushila Singh did not come in photocopy, however, looking to the situation of the same page in the original record, it is seen that the entire portion available in the original sheet below the name of Sushila Singh has been neatly cut horizontally. This tampering is clearly carried out after filing of the reply.

13. The present case depicts very sorry state of affairs and it clearly shows that the State Authority had gone to the extent of tampering the original record before putting in the seal cover for being shown to this court.

14. This Court cannot remain silent spectator to such mischievous deed of the State Authority. It may be possible that the 1 cm., portion at bottom of name of Sushila Singh had been blank or it is possible that something was written on that portion. Just to hide the real position from being revealed to this Court, the said portion has been cut off while sending the record to be shown to this Court. If the said portion was blank then certainly the petition of the petitioner was liable to be dismissed and if the said portion was containing the name of the petitioner, then this petition was liable to be allowed. By cutting off the said questioned portion after filing of reply, the responsible person has

deliberately manipulated and tampered the record so that the correct position never comes out before this Court.

15. In view of this situation this Court has no option but to direct the respondent 1 Chief Conservator of Forest, Bhopal to conduct an enquiry into the matter of tampering with the questioned page of original record. The inquiry shall be carried out and the responsibility on concerning person shall be fixed who has carried out such manipulation and tampering in the original record of Selection. Let the inquiry be carried out within three months and the result whereof be communicated to the Registry of this court, failing which this petition shall be listed again under the caption "direction".

16. Now coming to the relief that may be granted to the petitioner in such facts situation. The State Authority by manipulating the original record has duly ensured that truth never comes out before this Court whether the petitioner had actually participated in the walking test or not. Thus, it would be appropriate to grant an opportunity to the petitioner to appear in the walking test.

17. The respondents No. 1 to 3 are directed to carry out a fresh walking test for the petitioner on the same parameters as was done on 08.07.2008. If the petitioner qualifies the said walking test, then her candidature be considered as per her position in the merit list in the selection of 2008. If it is found that any of the candidate below the merit of petitioner in her category has been given appointment, then she shall be given appointment with continuity in service and all consequential benefits (except payment of salary) from the date such appointment was granted to the candidate immediately below to her in merit.

18. With the aforesaid direction, the petition is disposed of.

MISHRA

