



**HIGH COURT OF MADHYA PRADESH, PRINCIPAL SEAT AT
JABALPUR.**

SINGLE BENCH: **JUSTICE SUJOY PAUL**

W. P. No. 4616/2011

Deepak Sabagoti

Vs.

State of M.P. & Others

Mrs. June Choudhary, learned Senior Counsel with Ms. J. Iyer, learned counsel for the petitioner.

Smt. D.K. Bohre, learned Government Advocate for the respondent No. 1 to 3/State.

Shri Arvind Shrivastava, learned counsel for the respondent No. 4.

(Order)
25/07/2016

In this petition filed under Article 226 of the Constitution, the petitioner has challenged the suspension order dated 14-09-2006 (Annexure P/1) and prayed that in absence of issuance of any Charge-sheet till date, the suspension order aforesaid be directed to be treated as revoked automatically. The consequential benefits arising thereto are also claimed.

2. Ms. Choudhary, learned Senior Counsel contended that the petitioner was suspended on 14-09-2006. Thereafter, no subsistence allowance was paid to the petitioner. His repeated representations could not fetch any result. The department did not constitute any enquiry. Thus, the petitioner be treated to be reinstated on completion of stipulated period as per M.P.C.S. (CCA) Rules, 1966.

3. Prayer is opposed by Mrs. D.K. Bohre, learned Government Advocate. She relied on various paragraphs of the return. It is submitted that petitioner's appointment order was obtained fraudulently. The answering respondent conducted an enquiry and found that the petitioner was not the employee of Municipal Council, Jawar nor he was appointed by the respondent No. 4. The enquiry report is filed as Annexure R/1. She further submits that the petitioner



has committed forgery and, therefore, he is liable to be prosecuted and punished in accordance with law. Lastly, it is submitted that since the petitioner was never appointed by Municipal Council, therefore there is no question of grant of any benefit based on his suspension. She also contended that the petitioner's father was working as Chief Municipal Officer at Jawar and with his help petitioner was fraudulently appointed.

4. Shri Arvind Shrivastava, learned counsel for the respondent No. 4 contended that the appointment order of petitioner was issued by C.M.O., Jawar, who happened to be petitioner's father. The petitioner's brother-in-law Lakhan Lal was also given appointment in the same fraudulent manner. No advertisement for filling the vacancy was issued. No candidature were invited. No selection had ever taken place. No resolution by Council was passed. No decision at any appropriate level was taken for issuing the appointment order dated 15-04-2005. The appointment order dated 15-04-2005 was not issued to the petitioner through dispatch section of Nagar Panchayat. The Deputy Director, Urban Administration by order dated 18-07-2006 (Annexure R-4/1) directed that no salary etc. be paid to the petitioner. The salary/subsistence allowance has not been paid because a direction was issued by Deputy Director. It is submitted that Deputy Director completed the enquiry and submitted its report to the Commissioner, Urban Administration and Development but the copy of such report is not given to the respondent No. 4. In view of the fraud played by the petitioner, it is prayed that no equitable relief is due to the petitioner.

5. I have heard the parties at length and perused the record.

6. In view of aforesaid stand of parties, I deem it proper to issue following directions:-

- (1) The petitioner shall file his appointment order and other documents to show that he was duly appointed by his employer.
- (2) The respondents may file relevant documents to show that no decision was taken at any appropriate level for appointment of the petitioner.
- (3) The respondents may also file relevant resolutions, relevant pages of dispatch register etc. to show that neither the decision was



taken to appoint the petitioner nor any appointment order was directed to be issued.

(4) The respondents shall apprise the Court as to what action has been taken on the enquiry report (Annexures with the returns).

7. In the peculiar facts of this case where the respondents are disputing the appointment of the petitioner itself, I am not inclined to grant any interim relief to the petitioner or decide the matter without going through the relevant record. Resultantly, the respondents are directed to comply with this order within four weeks.

8. The matter is released with the aforesaid directions.

9. A typed copy of this order be given to Shri Arvind Shrivatava and A.G. Office for compliance.

(Sujoy Paul)
Judge

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