

HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE

S.B.: HON'BLE MR. S. C. SHARMA, J

WRIT PETITION NO. 12709 / 2010 (S)

ANJULA W/O PRAKASH MALVIYA
Vs.

STATE OF MP & FOUR ORS.,

* * * * *

ORDER

(31/1/2011)

The petitioner before this court has filed this present petition being aggrieved by order of termination dt. 13/4/2009. The contention of the petitioner is that she was appointed by an order dt. 21/9/2007 on the post of Shiksha Karmi Grade III along with other candidates and without granting any opportunity of hearing, the impugned order has been passed on 13/4/09. The petitioner has further stated that her service were put to an end along with other identically placed Samvida Shala Shiksha Karmi Grade III and all other identically placed persons have approached this Court by filing various writ petitions and this Court in the case of Shantilal Nayak s/o Mohanlal Nayak Vs. State of MP & Ors., (WP NO. 3139 / 2009) has allowed all identical

writ petitions and a liberty has been granted to the State Government to hold a proper enquiry in the matter and to pass a fresh order.

Learned Government Advocate has not disputed the aforesaid averments and has fairly stated before this Court that in all other identical cases the order of termination has been set aside. This Court in the case of Shantilal Nayak s/o Mohanlal Nayak Vs. State of MP & Ors., (WP NO. 3139 / 2009) in paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 has held as under :

3. Reply has been filed on behalf of the respondent and in the reply, respondent has stated as under:-

Para 2. Contents of the para 5 is being replied as under:-

It is most humbly submitted that the due enquiry had been done in the matter and the responsible officers found that the experience certificate were not issued by the competent/proper/specific authority and hence the said action was taken on the recommendations of the Collector even the F.I.R. Has been lodged. The copy of the relevant proceedings and the copy of the

F.I.R. is being annexed herewith and marked as ANNEXURE R/1 & R-1 respectively.

It is most humbly submitted that the petitioner cannot claim any benefit under the said provisions as the same are not applicable in the present case.

It is most humbly submitted that the matter has already been enquired into and now even F.I.R. Has been lodged hence the petitioner cannot claim any relief.

It is submitted that the petitioner can any time be terminated when he has procured job by submitting false certificate.

Para 6. The grounds raised are repetition of the facts narrated in the petition and have been replied in the foregoing paras. That, the none of the ground is available to the petitioner and all the grounds raised by the petitioner are denied in toto.

Para 7&8. In view of the aforesaid submissions made by the respondent in this return, the petitioner is not entitled to get any relief from this Hon'ble Court as well as interim relief and the petition filed by the petitioner may kindly be dismissed with costs.

**Para 9,10 and 11. Contents of this
paras being formal need no reply.**

4. The aforesaid reply of the respondents simply states that a false certificate was submitted by the petitioner while claiming appointment and an FIR has been lodged in the matter. The respondent has also enclosed proceedings, which took place in the matter of termination of services of Sanvida Shala Shikshak Gr.III.

5. Learned Government Advocate for the respondent/State has prayed for dismissal of the writ petition.

6. Heard learned counsel for the parties at length and perused the record.

7. In the present case, it is admitted fact that the petitioner was appointed on 17.08.2006 and he has submitted all the certificates as required by the respondents and the same is reflected from the acknowledgment on record (Annexure P-1 dated 05.06.2006). The appointment order of the 2006 was scrutinized in the year 2009 and some alleged irregularities were noticed as reflected from the annexure R-1 dated 25.03.2009 in respect of appointment and the note-sheet dated 16.04.2009 filed by the respondent also reveals that Collector, Neemuch has directed

the termination of all such employees with immediate effect thus, the decision was taken to put to an end the services of the petitioner even prior to issuance of a show-cause notice.

8. The respondent-Chief Executive Officer has issued a show-cause notice and the decision was also published in the newspaper on 17th April, 2009 and show-cause notice was issued by the Chief Executive Officer on 22.04.2009 by which Chief Executive Officer has granted 3 days' time to the petitioner to file reply and the only allegation levelled against the petitioner in the show-cause notice was that the experience certificate submitted by him was not issued by the competent authority. The petitioner has once again submitted the same certificate, which was submitted by him in the year 2006 and the Chief Executive Officer has passed an order on 02.05.2009 stating therein that the petitioner has submitted copy of the certificate to the Janpad Panchayat only after issuance of the show-cause notice in the matter. The order of termination also reveals that the order has been passed on the instructions of the Collector dated 20th April, 2009. Thus, in the present case, it is an admitted fact that based upon the fact finding inquiry in which the petitioner was not a party, the Collector, Distt.-Neemuch has arrived at conclusion to

discontinue the services of the petitioner and thereafter, show-cause notice was issued in the matter. In the order of termination, the only allegation against the petitioner is that the experience certificate was not issued by the competent authority, whereas in the present case the petitioner has filed the certificate issued by the competent authority and the same certificate was filed by the petitioner while submitting an application in the year 2006 for the post of Sanvidha Shala Shikshak Gr.III.

9. In the present case, it is admitted fact that the petitioner was not heard while the scrutiny of the certificate took place and the services of the petitioner were put to an end in spite of the fact that the certificates in question as stated by the petitioner was issued by the appropriate authorities.

10. This Court is of the considered opinion that respondents have not followed the principles of natural justice and fair play in the matter as the petitioner has been terminated on the basis of a decision, which was taken to discontinue the services of the petitioner behind his back and, therefore, the impugned order, which is based upon the decision of the Collector is bad in law, the same is hereby quashed.

11. The petitioner is continuing in

service by virtue of the interim order granted by this Court on 13.05.2009 and has also received salary during the pendency of the writ petition, therefore, no order is being passed for grant of salary and as this Court has quashed the impugned order, the petitioner shall be permitted to continue on the post of Sanvida Shala Shikshak Gr.III.

12. However, liberty is granted to the State Government, if they so desire, to hold proper inquiry in the matter after following prescribed procedure as provided under the statutes and to pass a fresh order in accordance with law.

With the aforesaid, the writ petition stands allowed.

No order as to costs.

Keeping in view the aforesaid as in other identical cases the order of termination has been set aside and as no opportunity of hearing was granted in the present case also, the impugned order dt. 13/4/09 is hereby set aside. Respondents are directed to reinstate the petitioner on the post of Samvida Shala Shiksha Karmi Grade III within 30 days from the date of receipt of the certified copy of this order. The petitioner shall not be entitled for backwages. However, the petitioner will be entitled for notional fixation

of salary and other consequential benefits.

However, a liberty is granted to the State Government ,
if they so desire, to hold a proper enquiry in the matter and
after following the prescribed procedure, as provided under
the statute the respondents shall be free to pass a fresh order
in accordance with law.

With the aforesaid this writ petition stands allowed.

No order as to costs.

(S. C. SHARMA)
J U D G E

℞