

WP-9374-2016

(M/S SHAKTI TRADERS Vs THE STATE OF MADHYA PRADESH)

31-05-2016

Shri Rohit Jain, learned counsel for the petitioner.

Shri Samdarshi Tiwari, Deputy Advocate General for the respondents/State.

Heard counsel for the parties. Taken up for final disposal forthwith, by consent. Counsel for the State waives notice for final disposal.

The issue raised in this petition is squarely answered by the decision of the Division Bench of this Court in the case of **Navin Dubey v. The State of Madhya Pradesh** in W.A.No.98/2013 decided on 03.07.2013 (2013 SCC Online M.P. 4914). Even in this case, the Authority himself arrogated the power of compounding and of imposing penalty, even though, petitioner had not volunteered in that behalf. In such a case, the appropriate course for the Authority was to refer the matter to the Magistrate for further action as per law. This legal position has been expounded in the aforesaid decision.

Accordingly, we allow this petition on the same terms as in the case of **Navin Dubey** (supra). The impugned order is set aside with liberty to the Authority to proceed in the matter in accordance with law.

Counsel for the petitioner submits that the petitioner is more than confident of succeeding, if the prosecution is launched. That is the matter to be decided by the Appropriate Forum. We are not expressing any opinion on merits on this contention.

(J.K. MAHESHWARI)
V.JUDGE

(ATUL SREEDHARAN)
V.JUDGE

C.