

Mangleshwar Mishra Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-27-2013

Appellant : Mangleshwar Mishra

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Dharmesh Chaturvedi

Judgement :

Mangleshwar Mishra versus State of M.P.Review Petition No ::

752.

27. 08.2013.

Shri Dharmesh Chaturvedi, learned counsel for the applicant.

Shri K.S.Wadhwa, learned Additional Advocate General for respondent Nos.1 to 4.

None appears for respondent No.9, even though served, represented by counsel and reply filed.

Seeking review/recall of an order dated 26.10.2010 passed in W.P.No.133/2010(s).this application has been filed for review.

Applicant herein, Shri Mangleshwar Mishra was respondent No.7 in W.P.No.133/2010(s).In the said writ petition dispute was with regard to

appointment of Panchayat Karmi/Panchayat Secretary to the Panchayat in question namely Gram Panchayat Sohagpur, in Janpad Panchayat Sohagpur, Tehsil Sohagpur, District Shahdol.

It seems that with regard to appointment of Panchayat Karmi/Panchayat Secretary certain dispute was raised by the original petitioner Shri Sitaram Napit before the S.D.O. The S.D.O. passed an order on 8.11.2007 and interfered into the process of selection.

Being aggrieved by this order dated 8.11.2007, applicant herein Shri Mangleshwar Mishra filed a 2 revision before the Collector.

The Collector interfered into the matter and allowed the revision filed by present applicant and set aside the order passed by the S.D.O. on 8.11.2007.

Aggrieved by this order passed by the Collector, further revision was filed by the petitioner Shri Sitaram Napit before the Commissioner and when the Commissioner also dismissed his application, the writ petition was filed.

In the writ petition, the present applicant was respondent No.7.

However, on the ground that the present applicant was not an aggrieved person, as he was not a party in the appeal filed before the S.D.O. and, therefore, he had no right to file revision petition and he has not even submitted application for appointment, the writ petition was dismissed.

not it is pointed out by the applicant that applicant herein is an aggrieved person because he had submitted application to the post in question on 27.7.2007 to the Sarpanch of the Gram Panchayat and the Sarpanch had issued him acknowledgment of the same vide Annexure A-4.

Accordingly, contending that as the present applicant was also a candidate seeking appointment to the post in question, the findings recorded that he is a stranger and not entitled to file revision against order of S.D.O. is not a correct finding, 3 which is an error apparent on the face of record and, therefore, review is called for.

Even though, respondent No.9 has filed reply and has brought on record a letter written by Sarpanch vide Annexure R-9-4 and say that the acknowledgment of receipt Annexure A-4 is not issued by him, the fact remains that there is serious dispute with regard to fact as to whether the present applicant was also a person claiming appointment to the post in question, therefore, entitled to interfere in the process of selection, which was challenged by respondent No.9 in W.P.No.133/2010(s). Taking note of all these facts ORS. we are of the considered view that the findings given by the writ court on 26.10.2010 to say that the present applicant is not an aggrieved person because he had not submitted any application for appointment, seems to be an error apparent on the face of record having been passed without taking note of averments made by present applicant in his return and documents filed by him in the writ petition, it is seen that he was a candidate who had submitted an application and acknowledgment which were also produced by him.

4 Taking note of all these factors we are of the considered view that dismissal of the writ petition by holding that present applicant is not an aggrieved person, is an error apparent on the face of record, which had to be reconsidered as relevant document and facts available on record were not adverted to while deciding the writ petition.

In view of same, the application is allowed.

Order dated 26.10.2010 passed in W.P.No.133/2010(s) is recalled, the said writ petition is restored to its original file, it be placed for orders before an appropriate Bench.

The review application stands allowed and disposed of.

Certified copy as per rules.

(RAJENDRA MENON) (SMT.

VIMLA JAIN) JUDGE JUDGE ss/-

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