

Kulbinder Kaur Vs. the Collector

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Court : Madhya Pradesh

Decided On : Nov-29-2012

Appellant : Kulbinder Kaur

Respondent : The Collector

Advocate for Def. : Shri. S.Ganguli

Advocate for Pet/Ap. : Shri. Bhagwan Singh

Judgement :

W.P.NO.12405/05(S) 29-11-2012.

Shri Bhagwan Singh, learned counsel for the petitioner.

Smt.D.K.Bohre, learned Panel Lawyer for respondent No.1.

Shri S.Ganguli, learned counsel for respondent no.2.

Challenging the order dated 03-10-2005, passed by the Collector, Balaghat, whereby the appointment of the petitioner as contract teacher has been cancelled, the petitioner has filed this writ petition.

Having heard the learned counsel for the parties, it is seen that the impugned action has been taken by the Collector, Balaghat, respondent no.1 by exercising powers under Section 323 of the M.P.Municipalities Act, 1961.

The question as to whether the Collector can exercise this power for cancelling the appointment has already been considered by this court in various cases as well as in W.P.No.11596/2005 (Chandra Hass Sharma and others versus Municipal Council and otheRs.vide order dated 23-08-2006 and similar action and orders passed by the Collector has been quashed and it has been held that the Collector has no power to take action under Section 323 of the M.P.Municipalities Act, 1961, the Collector is only empowered to suspend the orders and the final action or decision is to be taken by the State Government.

In the present case the Collector has taken final decision which is beyond his jurisdiction and therefore, on 2 this count and in the light of the order dated 23-08-2006 passed in W.P.No.11596/2005 under similar circumstances, this petition has to be allowed.

Accordingly, this petition is allowed.

Order impugned dated 03-10-2005 passed by the Collector, Balaghat is quashed and it is directed that consequential benefits of appointment on the post of Contract Teacher be granted to the petitioner subject to any order that may be passed by the State Government on reference in the matter, if any made by the collector.

With the aforesaid, the petition stands allowed and disposed.

C.C.as per rules.

(RAJENDRA MENON) hsp JUDGE

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