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Dilip Kumar Dwivedi Vs. Kuldeep Kumar Dwivedi

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Court : Madhya Pradesh

Decided On : Jan-10-2013

Appellant : Dilip Kumar Dwivedi

Respondent : Kuldeep Kumar Dwivedi

Advocate for Def. : Shri. C.A.Thomas

Advocate for Pet/Ap. : Shri. R.B.Singh

Judgement :

WRIT APPEAL No.1225/200

10. 01.2013 Shri R.B.Singh, learned Counsel for the appellant.

Smt.

Shobha Menon, learned senior Counsel with Shri C.A.Thomas, learned Counsel for respondent No.1.

On 01.03.2012, this Court passed an order directing the parties to examine whether the appellant's appointment as Panchayat Karmi dated 22.12.2007 was cancelled, revoked or negated by any authority at any stage.

Obviously, the decision of this case depends on whether that appointment is in force because if the appointment dated 22.12.2007 has not been set aside, the process for selection to the said post could not have been initiated.

We have heard learned Counsel for both the parties.

Smt.

Menon, learned senior Counsel for respondent No.1, referred various orders including the order of the Commissioner dated 07.11.2009 where the Commissioner has referred to the order appointing the appellant dated 22.12.2007 and has made an observation to the effect that the said order need not be taken into account since it was not validly made and was not approved by the Collector.

Having carefully gone through the records, we find that no authority has, at any point of time, cancelled or revoked the order but have proceeded on the basis that the said order is liable to be ignored since it has not been validly made.

We are of the view that this is wholly impermissible since an order, which has come into existence and created rights in WRIT APPEAL No.1225/2009 2 another person, cannot be said to bear stamp of invalidity on its forehead and must be set aside specifically.

It cannot be ignored as if it does not exist, particularly since the other party can then take such remedies as may be advised in law in respect of the action of cancellation or revocation.

In the circumstances, we are of the view that the order dated 07.11.2009 by which the Commissioner, Rewa, allowed Revision No.460/Revision/08-09 and remanded the matter to Gram Panchayat, Konikala to consider all the applications including four applications, which were not considered in the selection for the post of Panchayat Karmi, is liable to be set aside and is accordingly set aside.

The respondents are at liberty to take such action as may be advised in respect of the order dated 22.12.2007 as per law.

The writ appeal is accordingly disposed of.

(S.A.Bobde) (K.K.Trivedi) Chief Justice Judge Skc

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