

Arvind Kumar Yadav Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-24-2012

Appellant : Arvind Kumar Yadav

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Mohit Nayak

Judgement :

1 W.P.No.12487/12 24/08/12 Shri Mohit Nayak, learned counsel for the petitioner.

Shri Vivek Sharma, learned Panel Lawyer for the State.

Challenging the order Annexure P-7 dated 19/07/11 passed by the Additional Commissioner, Sagar rejecting a revision/appeal filed by the petitioner on the ground that petitioner is still working as a 'Panchayat Karmi' and, therefore, the appeal/revision is not maintainable, petitioner has filed this writ petition.

From the records, it is seen that petitioner is working as a 'Panchayat Karmi' and while so working in accordance with the provisions of Section 69 (1) of the M.P.Panchayat Raj Avam Gram Swaraj Adhiniyam vide order Annexure P-6 dated 1/03/11, the Collector had withdrawn the powers of 'Panchayat Secretary'.

It is this order passed by the Collector withdrawing the powers of 'Panchayat Secretary' against which the petitioner has preferred a revision before the Additional Commissioner.

The Additional Commissioner instead of adjudicating the dispute on merit has refused to go into the matter only on the ground that petitioner is still working as a 'Panchayat Karmi' and, therefore, the appeal/revision filed is premature.

2 This finding of the Additional Commissioner and the process followed is unsustainable.

Appointment of the petitioner as a 'Panchayat Karmi' gave him the right to be nominated as a 'Panchayat Secretary'.

Petitioner was nominated as a 'Panchayat Secretary' by the Collector under Section 69 (1) of the M.P.Panchayat Raj Avam Gram Swaraj Adhiniyam.

When this right was withdrawn, a cause accrues to the petitioner to have a grievance into the matter and if the petitioner is aggrieved by the order withdrawing the powers of 'Panchayat Secretary' and files an appeal/revision before the competent appellate authority, then the competent appellate authority cannot refuse to adjudicate the dispute merely, because the employee holds the office of 'Panchayat Karmi' , as the right available to work as a 'Panchayat Secretary' is taken away and a cause accrues to the petitioner for filing of an appeal or revision.

Accordingly, the order passed by the Additional Commissioner is wholly unsustainable and the finding recorded that the appeal/revision is premature is wholly misconceived and cannot be accepted.

The grievance of the petitioner is with regard to his removal from the post of 'Panchayat Secretary' , this is a dispute which has to be adjudicated by the Additional Commissioner and, therefore, 3 the finding recorded by the Additional Commissioner that the revision/appeal is premature merely because his substantive appointment as a 'Panchayat Karmi' is in existence is wholly misconceived and in that view of the matter, this petition is allowed.

The order impugned Annexure P-7 dated 19/07/11 passed by the Additional Commissioner, Sagar is quashed and the Collector is directed to decide the dispute on merit for removal of the petitioner on the post of 'Panchayat Secretary'

after hearing all concerned within a period of three months from the date of receipt of certified copy of this order.

With the aforesaid, petition stands allowed and disposed of.

(Rajendra Menon) Judge Vy/-

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