

Laxmi Narayan Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jan-02-2013

Appellant : Laxmi Narayan

Respondent : The State of Madhya Pradesh

Judgement :

Writ Petition No.15436/2012 2.1.2013 Shri G.S.Ahluwalia, Advocate, for the petitioner.

Smt.

Nirmala Nayak, Government Advocate, for the State.

Heard on admission.

By this petition, filed under Article 226 of the Constitution, the petitioner has prayed for quashing of orders dated 18.4.2011, Annexure P6, and 7.8.2012, Annexure P11, passed by respondent no.7 Collector, Mandla, and respondent no.6 Commissioner, Jabalpur Division, respectively.

The petitioner after being elected as member of Janpad Panchayat in the year 2005 was holding the office of Vice President, Janpad Panchayat, Ghugri, District Mandla, till 2010.

In that year, fresh elections were held and he was again elected as Vice President of Janpad Panchayat, Ghugri.

After the second time election of petitioner, some persons made a complaint on 29.9.2010 to respondent no.6 that he, by misusing his position as Vice President, obtained unlawful pecuniary benefits for himself and his father and, therefore, he be removed from the office of Vice President.

After the enquiry on the complaint, a proposal was made to remove him from the office because he was found guilty of misconduct in the discharge of his duties.

Section 40 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (in short, the Act.) provides for removal of office bearers of Panchayat.

It reads as under: 40. Removal of office bearers of Panchayat.- (1) The State Government or the prescribed authority may after such enquiry as it may deem fit to make at any time, remove an office bearer- (a) if he has been guilty of misconduct in the discharge of his duties; or (b) if his continuance in office is undesirable in the interest of the public: Provided that no person shall be removed unless he has been given an opportunity to show cause why he should not be removed from his office.

Explanation.- For the purpose of this sub-section Misconduct.

shall include- (a) any action adversely affecting- (i) the sovereignty, unity and integrity of India; or (ii) the harmony and the spirit of common brotherhood amongst all the people of State transcending religious, linguistic, regional, caste or sectional diversities; or (iii) the dignity of women; or (b) gross negligence in the discharge of the duties under this Act.

(c) the use of position or influence directly or indirectly to secure employment for any relative in the Panchayat or any action for extending any pecuniary benefits to any relative, such as giving out any type of lease, getting any work done through them in the Panchayat by an office bearer of Panchayat.

Explanation.- For the purpose of this clause the expression `relative shall mean father, mother, brother, sister, husband, wife, son, daughter, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law: Provided that the final order in the inquiry shall as far as possible be passed within 90 days from the date of issue of show cause notice to the concerned office bearer.

(2) A person who has been removed under sub-section (1) shall forthwith cease to be a member of any other Panchayat of which he is a member, such person shall also be disqualified for a period of six years to be elected under this Act.

A show cause notice, as provided under sub-section (1) of the above quoted section 40 of the Act was issued to the petitioner by respondent no.7 as to why he should not be removed on the ground that he had been found guilty of misconduct in the discharge of his duties.

The petitioner responded to the show cause notice by submitting his reply but it was not found to be satisfactory.

Respondent no.7, therefore, by the impugned order dated 18.4.2011 directed for his removal.

Aggrieved, the petitioner filed an appeal before the Commissioner who too by a reasoned order dated 7.8.2012 agreed with the findings of Collector regarding misconduct committed by him and dismissed the same.

It is in this background the petitioner has filed the present petition.

According to the enquiry report of the Chief Executive Officer, the following transactions were made by the petitioner: 0 xzke iapk;r xzke iapk;r psd dh fdlds i{k iapk;r dh iapk;r dk uke].[kkrk }kjk tkjh jkf'k esa psd tkjh ds'kcqd vuqlkj dh ekad ,oa psd a- ,oa fd;k x;k psd tkjh djus ds'kcqd [kkrs dk uke fnukad dk iz;kstu dk ist - ,oa fnukad 1- [kEgfj;k].0244511@8- 25].000@& J.dqduw].dkahV 16@17- [kkrk - 9- 2008 :- y{ehukjk;.k IM+d ukyh 9-08 21067].jkstxkj pkSdls dk;Z esa yxs xkjaVh ;kstuk etnwjksa dh [kEgfj;k etnwjh fnukad 3-9-08 ls 9-9- 08 rd 294 ekuo fnot dk Hkqxrku :i;s 24000@& 2- HkSlokgh].[kkrk 0234797@27- 50].000@& J.dfiy/kkjk dwi 7@28-5- - 5-2008 :- y{ehukjk;.k fuekZ.k 1 08 th@5821058 pkSdls /kuflag

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The learned counsel for petitioner could not dislodge the concurrent findings of the Collector and Commissioner in this regard against the petitioner.

The learned counsel then submitted that the allegations pertaining to petitioners misconduct were in respect of his tenure which had already come to an end in the year 2010 and, therefore, his removal from the office after re-election is illegal.

I am not impressed with this submission because there is nothing in section 40 of the Act which provides that the misconduct must relate to the period during which the office bearer is removed.

For these reasons, I find no merit in the petition.

It is accordingly dismissed summarily.

JUDGE ps

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