

Haresh Kumar Pathak Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-08-2012

Appellant : Haresh Kumar Pathak

Respondent : The State of Madhya Pradesh

Judgement :

1 1 Writ Appeal No.850/2012 08.08.2012 Shri Praveen Verma, Advocate for the appellant.

Shri Vijay Pandey, Deputy Advocate General for the respondents.

This appeal is directed against an order dated 19.6.2012 by which the Single Bench, while hearing the petition, has modified its earlier interim order.

For ready reference we quote the entire order which reads thus :- Shri Praveen Verma submits that he proposes to make certain amendments in the writ petition and for this he requires two weeks time.

Prayer seems to be reasonable and is allowed.

How- ever, as the interveners and various other persons have been appointed as Panchayat Karmi in accordance to the provisions of M.P.Panchayat Raj Evam Gram Swaraj Adhiniyam and keeping in view the provisions of section 91 read with section 69 of the said Adhiniyam the interveners who have been appointed as Panchayat Karmi and thereafter notified as Panchayat Secretaries cannot be

prevented from working on the post to which they have been appointed after following the statutory provisions.

In view of the above the interim order passed earlier is clarified to the extent that such persons who have been appointed as Panchayat Karmi and Panchayat Secretaries under section 91 read with section 69 of the Adhiniyam, shall be permitted to work on the vacant post for which they have been appointed during the pendency of the writ petition. It is submitted by the appellant that without any application for modification of the earlier order, the Single Bench erred in modifying the order permitting the persons who have been appointed as Panchayat Karmi and Panchayat Secretaries under section 91 read with section 69 of the Adhiniyam to work on the va

2. cant post for which they have been appointed during the pendency of the writ petition.

It was submitted that without any application for modification of the earlier order, the Single Bench ought not to have modified the order.

It was also submitted that appellant was working as Secretary of Gram Panchayat Garhi Padariya.

As per the policy of the State Govt.

the appellant who was earlier appointed as Gram Sahayak, but the aforesaid post was kept in a dying cadre, as per the instructions of the Government, such Gram Sahayak were permitted to perform the duties of Panchayat Secretary and accordingly the appellant was performing the duties of the Secretary, Gram Panchayat, Garhi Padariya, but not because of modification of earlier interim order, other person may be appointed as Panchayat Karmi and thereafter can be notified as Panchayat Secretary of the same Panchayat.

We have perused the impugned order and find that the Single Bench considering the exigency in the matter that in spite of appointment of Panchayat Karmi and being vested with the powers of Panchayat Secretary, could not work and the work of Panchayat was hampering, modified the earlier order.

Merely no application was filed before the Single Bench could not be a ground to assail the order.

The writ court is a court of extra ordinary jurisdiction and if any discrepancy, illegality or any important aspect is brought to the notice of the Single Bench, the Single Bench was having jurisdiction to pass an order in that circumstances and for this if earlier order was required to be modified then the Single Bench was having jurisdiction to modify th

3. earlier order even without filing of any application for modification of the earlier order.

In view of the aforesaid, if the learned Single Judge considering the peculiar facts of the case has passed the aforesaid order, no fault is found.

This appeal is found without merit and is dismissed with no order as to cost.

(Krishn Kumar Lahoti) (Smt.Vimla Jain) Judge Judge HS

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