
(2014) 05 MP CK 0025
In the Madhya Pradesh High Court
Case No : W.P. No. 6761/2014

A.K. Sondhiya

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 08-05-2014

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2014) 05 MP CK 0025

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : S.K. Jain, Learned Counsel, Advocate for the Appellant

Final Decision : Dismissed

Judgement

R.S. Jha, J.—The petitioner has filed this petition being aggrieved by order dated 24.03.2014 by which the Commissioner, Jabalpur, Division Jabalpur has deferred passing of orders on the application for stay filed by the petitioner awaiting record of the case of the Janpad Panchayat.

2. The learned counsel for the petitioner submits that the court was bound to pass orders on the application for interim relief and could not have adjourned the same awaiting the record. It is also submitted that the petitioner had previously approached this court by filing W.P. No. 3476/14 which was disposed of with an observation that the petitioner may move an application for urgent hearing and if he does so, the authority would consider the same.

3. It is submitted that the order passed by this court in the aforesaid petition has been affirmed in W.A. No. 273/2014 inspite of which the authority has not taken any decision on the application for interim relief but has deferred the hearing thereof till receipt of the record of the Janpad Panchayat. The learned counsel for the petitioner has relied upon the order passed by a Division Bench of this court in W.A. No. 69/2007 decided on 05.01.2007.

4. It is also contended by the learned counsel for the petitioner that the

petitioner has also moved an application before the Additional Commissioner by placing reliance on the order passed in W.P. No. 12168/2013 which had been filed by the respondent no. 5 and was disposed of with liberty to the respondent no. 5 to file an application u/s 5 of the Limitation Act which was further directed to be considered by the Collector before whom the matter was pending at that time.

5. The learned counsel for the petitioner submits that the Collector has directly decided the case on merits without advertting to the issue of limitation as directed by this court and therefore, the petitioner had filed an application before the Additional Commissioner for remitting the matter back to the Collector but the same has not been considered and the matter has again been deferred for passing orders on the application for interim relief after receipt of the record of the Janpad Panchayat.

6. Having heard the learned counsel for the petitioner, it is observed that on the previous occasion also the petitioner has filed W.P. No. 3476/2014 being aggrieved by order dated 10.02.2014 passed in the same case wherein the Commissioner had ordered that the application for stay would be considered after receipt of the record of the Janpad Panchayat and this matter travelled up to the Division Bench in Writ Appeal No. 273/2014 wherein this court on 21.03.2014 has upheld the order of the Single Judge but while doing so observed as under:-

Having heard the learned counsel for the parties we see no error committed by the learned Writ Court in dismissing the writ petition. Merely because the Additional Commissioner did not pass any order on the question of interim relief no indulgence into the matter is called for. The appeal is dismissed.

However, the Additional Commissioner before whom the matter is pending shall make endeavour to decide the matter within a period of two months.

7. From a perusal of the aforesaid it is clear that the Division Bench of this court has already held that no indulgence can be given to the petitioner on account of the fact that the Additional Commissioner did not pass any order on the question of interim relief. It is also clear that the Division Bench disposed of the matter with a direction to the concerned authority to make endeavour to decide the matter within a period of two months.

8. It is also apparent from a perusal of the impugned order that the Additional Commissioner, Jabalpur has refrained from passing orders on the application for interim relief awaiting record of the Janpad Panchayat. Thus, the situation has not changed and in the circumstances, the order of Division Bench quoted above is fully applicable and binding upon the petitioner.

9. In the circumstances, the present petition which is a second attempt on the part of the petitioner to again raise the same issue, which has already been rejected by this court in the previous round of litigation, is totally misconceived

and meritless. Once the Division Bench has held that there is nothing wrong by the Additional Commissioner in awaiting the record of the Janpad Panchayat before passing of the orders on the application for interim relief, no fault can be found in the impugned order dated 24.03.2014.

10. In view of the order passed by the Division Bench of this court in W.P. No. 273/2014 dated 21.03.2014, in the present case itself which is binding inter-party, the reliance placed by the petitioner on the order passed in W.A. No. 69/2007, which is a totally different case on different facts, has no applicability to the petitioner's case as the petitioner and parties concerned are bound by the decision rendered by the Division Bench in W.A. No. 273/2014.

11. The other issues raised by the petitioner relates to the merits of the case and would be considered by the authority, in accordance with law while deciding the matter.

12. In view of the aforesaid facts, I do not find any merits in the present petition which is accordingly dismissed.