
(2001) 07 MP CK 0037

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1122 of 2001

Buddhi Ram Prasad

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 25-07-2001

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2001) 3 MPHT 313 : (2002) 1 MPLJ 151

Hon'ble Judges : S.P. Shrivastava, J;R.B. Dixit, J

Bench : Division Bench

Advocate : Shri D.K. Katare, for the Appellant; Shri J.D. Suryavanshi, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Heard the learned counsel for the petitioner as well as learned Govt. Advocate representing the contesting respondents.

The petitioner who felt aggrieved by an order transferring him from Gwalior to Dabra, had approached the M.P. State Administrative Tribunal, seeking quashing of the same.

Before the Tribunal, the respondents took a stand that the petitioner was not being sent to Dabra as in view of the order dated 29-10-1999, which superseded the order dated 26-5-2001, the petitioner was required to join on transfer at Shajapur. In the aforesaid circumstances, the Tribunal dismissed the application seeking quashing of the transfer of the petitioner from Gwalior to Dabra, as having been rendered infructuous.

The learned counsel for the petitioner has urged that the petition had not been rendered infructuous as the order dated 29-10-99 transferring him from Gwalior to Shajapur, which had been challenged by means of O.A. No. 640/2001, was pending consideration before the Tribunal, and by virtue of the interim order granted therein, the operation of the said order so far as it related to the

petitioner had been stayed. The contention is that the stay of operation of the order dated 29-10-99 had the result of reviving of the earlier order dated 26-5-2001 and in this view of the matter the petitioner would be forced to join at Dabra.

The aforesaid apprehension of the petitioner appears to be totally misconceived. Once the order dated 29-10-99 according to the respondent himself, had the effect of superseding the order dated 26-5-2001, there could be no occasion for implementing the order dated 26-5-2001, more so when the staying of the operation of the order does not amount to quashing of the order under the law.

Consequently, the order dated 29-10-99 continues to subsist but in view of the interim order, its implementation stands stayed for the time being.

Taking into consideration the facts and circumstances brought on record, no justifiable ground can be said to have been made out for any interference in the impugned order passed by the Tribunal, by this Court in the exercise of its extra-ordinary jurisdiction envisaged under Article 227 of the Constitution of India.

The writ petition is accordingly dismissed.

Writ Petition dismissed.