
(2016) 01 MP CK 0041
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3498 of 2014

Dhanendra Singh Bhadoriya

APPELLANT

Vs

State of M.P. & Others

RESPONDENT

Date of Decision : 21-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 1 MPWN 216

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

Bench : Single Bench

Advocate : D.P. Singh, Advocate, for the Appellant; Praveen Newaskar, Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

R.S. Jha, J.—This petition is filed by the petitioner being aggrieved by the order dated 21.5.2014 passed by respondent No.3, Inspector General of Police, Chambal Zone, Gwalior in exercise of powers under Police Regulation 270.

2. The only issue involved in the present case is regarding legality and validity of the exercise of powers by the respondent No.4, Inspector General of Police under paragraph 270 of the Police Regulations. The learned counsel appearing for the petitioner submits that the said power was exercised by the Inspector General without following the procedure prescribed therein as much as he did not issue any notice or give any opportunity of hearing to the petitioner and has directly exercised the powers of review and has set aside the order exonerating the petitioner in the departmental proceedings.

3. The respondents have filed their return and in the said return the respondents have justified the order passed by the Inspector General of Police on the ground that the order passed by the DIG exonerating the petitioner was ab-initio void as it was without authority and in such circumstances the Inspector General has rightly set aside the same in exercise of his revisional powers. However, the

respondents in the return have categorically stated that in view of the fact that the order passed by the DIG was non-est and abi-initio void, therefore, no notice was given or issued to the petitioner.

4. Having heard the learned counsel for the parties and in view of the return filed by the respondents, it is apparent and in fact and admitted fact that the petitioner was not given any opportunity of hearing, nor was any notice issued to him before exercise of powers under paragraph 270 of Police Regulations by the Inspector General. The provisions of paragraph 270 (4) of the Police Regulations is in the following terms:-

"The revision authority may for reasons to be recorded in writing exonerate or may remit, vary or enhance the punishment imposed or may order a fresh enquiry or the taking of further evidence in the case:

Provided that it shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard".

From a perusal of the aforesaid Regulation, it is apparent that it is mandatory for the authority exercising powers under paragraph 270(4) of the Police Regulations to give an opportunity of hearing to the party interested before passing any such order in the revision proceedings as held by this Court in 2007(1) M.P.L.J. 392 (Sushil Kumar Shrivastava v. State of M.P. And others). As admittedly, no such opportunity of hearing was given to the petitioner, the impugned order passed by the Inspector General of Police is contrary to law and deserves to be set aside.

5. In view of aforesaid discussion, the impugned order dated 21.05.2014 is hereby quashed and the petition filed by the petitioner is allowed. It is, however, observed that in case so advised, the respondent police authorities would be at liberty to initiate proceedings against the petitioner under paragraph 270 of the Police Regulations by issuing a notice to the petitioner and giving him opportunity of hearing and, thereafter proceed further in the matter.