

(2023) 12 MP CK 0100
In the Madhya Pradesh High Court
Case No : Writ Petition No. 31339 Of 2023

Nanhebai Ahirwar

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 21-12-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Madhya Pradesh Civil Services (Classification, Control And Appeal) Rules, 1966 — Rule 19

Indian Penal Code, 1860 — Section 420, 467, 468, 471

Citation : (2023) 12 MP CK 0100

Hon'ble Judges : Gurpal Singh Ahluwalia, J

Bench : Single Bench

Advocate : Chandrakant Magarde, Swapnil Ganguly

Final Decision : Dismissed

Judgement

Gurpal Singh Ahluwalia, J

1. This petition under Article 226 of Constitution of India has been filed against the order dated 18.09.2023 passed by Regional Director, Health Services, Sagar in File No.Est.Avi/2023-13203-15, by which the services of petitioner have been terminated on the ground that he had procured service on the basis of forged marksheet of Higher Secondary School and an FIR in Crime No.47/2022 has been registered at Police Station, Patharia District Damoh for offence under sections 420, 467, 468 and 471 and he was also arrested in the same.

2. Accordingly, in exercise of power under Rule 19 of Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966, the services of petitioner have been terminated.

3. It is submitted by counsel for petitioner that petitioner has preferred an appeal to Regional Director, Health Services, Sagar Division, Sagar, Chief Medical and Health Officer, Damoh and Chief Block Medical Officer, CHC, Patharia, District

Damoh and the said appeal is pending.

4. Per contra, the petition is vehemently opposed by counsel for State. It is submitted by counsel for petitioner that petitioner has not filed an appeal before the competent authority. The appeal filed to the Regional Director, Health Services, Sagar Division, Sagar is not maintainable because the impugned order has been passed by the said authority and so far as Chief Medical and Health Officer, Damoh and Chief Block Medical Officer, CHC, Patharia, District Damoh are concerned, they are subordinate to Regional Director, Health Services, Sagar Division, Sagar,.

5. Faced with such a situation, counsel for petitioner seeks permission of this Court to withdraw this petition with liberty to file a fresh appeal before a competent authority against the impugned order.

6. The services of petitioner have been terminated on the allegation that he had procured employment on the basis of forged marksheet of Higher Secondary. There is nothing on record to suggest that the said allegation is not correct. Furthermore, a criminal case has already been registered against the petitioner. Unless and until the finding with regard to filing of forged marksheet is set aside, no relief can be granted to the petitioner. Since it is a highly disputed question of fact and even otherwise the petitioner has not placed anything on record to suggest that the marksheet submitted by him was a genuine one, at present this Court is of the considered opinion that no case is made out warranting interference by bypassing the statutory remedy of appeal.

7. Accordingly, this petition is dismissed with liberty to petitioner to approach the competent authority by filing a statutory departmental appeal.