
(2021) 01 MP CK 0017

In the Madhya Pradesh High Court

Case No : Writ Petition No. 204 Of 2021

Ramlakhan Singh Gurjar

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 08-01-2021

Acts Referred:

Madhya Pradesh [Panchayat Raj Avam Gram Swaraj] Adhiniyam, 1993 — Section 89, 92

Citation : (2021) 01 MP CK 0017

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : D.S. Raghuwanshi, Alok Bandhu Shrivastava

Judgement

Vishal Mishra, J

Learned counsel for the petitioner submits that prior issuance of the recovery order under Section 92 or M.P. Panchayat Raj Evam Gram Swaraj

Adhiniyam 1993 (in short as "the Adhiniyam, 1993"), no proceedings have been initiated under Section 89 of the Adhiniyam, 1993. It is submitted that

until and unless the enquiry is being conducted under Section 89 of the Adhiniyam, 1993, no recovery could have been passed. He has relied upon the

order passed by the Coordinate Bench of this Court in W.P. No. 9459/2020 (Ram Lakhan Singh Gurjar Vs. State of M.P. and ors.) (Annexure P/7)

which was decided in favour of the petitioner himself on 14.07.2020, wherein, the recovery order was quashed owing to the fact that proceedings

under Section 89 of the Adhiniyam, 1993 was not taken up by the authorities.

From the record, it is seen that the document fixed at page no. 31 clearly shows that some enquiry was conducted by Sudhir Katore, Sub Engineer and

the enquiry report was submitted.

Petitioner's counsel submits that on the aforesaid enquiry no notices have been issued to the petitioner, therefore, he submits that the

respondents/authority be directed to file the aforesaid enquiry report before the Court to ascertain whether any enquiry under Section 89 of the

Adhiniyam, 1993 was conducted.

Counsel for the State submits that he is not in possession of the enquiry report as on date, he prays for time to seek instruction in the matter and

produce the aforesaid report.

Considering the aforesaid, seven days' time is granted to the State counsel to seek instruction in the matter to the aforesaid effect and produce the

enquiry report, if any, by the next date of hearing.

List the case in the next week.