
(2011) 01 MP CK 0012

In the Madhya Pradesh High Court

Case No : Writ Petition No. 10368 of 2009

Sablu Singh

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 10-01-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 128 FLR 1121

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajendra Menon, J.—Shri Ghanshyam Sharma, learned Counsel for the Petitioner.

Shri J.K. Jain learned Government Advocate, for Respondent Nos. 1, 2 and 4.

Shri R.K. Patel, learned Counsel for Respondent No. 3.

Shri Arvind Shrivastava, learned Counsel for Respondent No. 6.

2. Challenging the order passed by the Collector, Mandla in a revision filed by Respondent No. 6 in the matter of appointment of Panchayat Karmi to the Panchayat in question, the Petitioner has filed this writ petition.

3. Even though the learned Counsel for the Petitioner argued that against an order passed by the Gram Panchayat in the matter of appointment of Panchayat Karmi, a revision is not maintainable and the Respondent No. 6 should have filed an appeal before the SDO but after hearing the learned Counsel for the parties and on going through the record, it is seen that when the revision was taken up for hearing by the Collector, the Collector found that as per merit Respondent No. 6 had received 74.8% marks and the Petitioner" had only received 70.88% marks and finding a more meritorious candidate to have been ignored and less meritorious candidate appointed, contrary to the requirement of circular dated 13.8.2007, the Collector has interfered in the matter and has directed for

appointment of the meritorious candidate. In the light of the aforesaid, finding recorded by the Collector the only question that warrants consideration is as to whether on a technical ground that the revision was not maintainable before the Collector and the appeal should have been decided before SDO, interference in this writ petition under Article 226 of the Constitution of India is warranted.

4. From the records, it is seen that the SDO had conducted an inquiry and the Collector in the revision has exercised the powers of revision by going through the original records of selection and the report of the SDO. Once the Collector has found that a more meritorious candidate has been ignored and the less meritorious candidate has been appointed and as the circular and policy for appointment dated 13.8.2007 contemplates a provision for appointing the more meritorious candidate merely on the ground that the Collector has no jurisdiction to interfere in the revision, I am not inclined to interfere in the matter. This Court exercising jurisdiction in a writ petition under Article 226 of the Constitution of India is required to ensure that substantial justice is done to the parties and the litigation should come to an end. The policy of the State Government and the requirement of the circular dated 13.8.2007 contemplates that merit has to be determined in accordance to the procedure indicates in the circular and a more meritorious candidates should be appointed.

5. In the present case when the allocation of marks was done in accordance to the circular, Respondent No. 6 received 74.8% marks and the Petitioner had only received 70.88% marks, inspite therefore, when the Petitioner was appointed, the Collector has interfered in the matter and in doing so, I am of the considered view that the Collector has not committed any error which warrants interfere now in this case. Once it is clearly established that a meritorious candidate has been appointed and in determining the inter se between the parties no error is committed. It is not necessary for this Court to interfere in the matter merely on the technical ground that an appeal should have been filed and the revision was not maintainable.

6. Accordingly, finding no error in the order passed by the Collector and finding a more meritorious candidate to have been appointed in accordance to the rule, I am not inclined to interfere in the matter, as this was the only ground canvassed on behalf of the Petitioner at the time of hearing.

Accordingly, for the grounds and reasons indicated hereinabove this writ petition is dismissed.