
(2016) 02 MP CK 0043
In the Madhya Pradesh High Court
Case No : W.P. 17265 of 2015.

Sewak S/o Hardas Sour

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 15-02-2016

Acts Referred:

Constitution of India, 1950 — Article 14
Madhya Pradesh Gram Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 — Section 92

Citation : (2016) 2 MPLJ 271

Hon'ble Judges : Alok Ardhe, J.

Bench : Single Bench

Advocate : Mr. Anand Shukla, Learned Counsel, for the Appellant; Mr. Girish Kekre, Learned Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

Alok Ardhe, J. - Mr. Anand Shukla, Learned Counsel, for the Petitioner.

2. Mr. Girish Kekre, Learned Government Advocate, for the respondent.

3. With consent of the parties, the matter is heard finally.

4. In this writ petition, the petitioner inter-alia has challenged the validity of the notice dated 7.8.2015 by which the petitioner has been asked to deposit a sum of Rs. 2,04,550/- and then to file reply upto 20.8.2015 failing which proceeding under Section 92 of the M.P. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (hereinafter referred to as "the Act, 1993") shall be initiated against the petitioner.

5. Facts giving rise to filing of the writ petition briefly stated are that the petitioner was posted as Ex-Sarpanch of Gram Panchayat Jyomoura, Janpad Panchayat Pra, Distt. Tikamgarh. The Sub-Divisional Officer, Niwadi, Distt. Tikamgarh, has issued a notice dated 7.8.2015 mentioned supra. In the circumstances aforesaid, the petitioner has approached this Court.

6. Learned counsel for the petitioner submits that the petitioner has been condemned unheard in as much as, the liability to pay the amount has been determined behind his back and the petitioner is being asked to deposit the amount in question first and then to submit the reply. It is further submitted that the impugned notice has been issued in flagrant violation of principles of natural justice.

7. On the other hand, learned Government Advocate has submitted that the Sub-Divisional Officer has issued the show-cause notice and, therefore, the writ petition is not maintainable and the petitioner should be directed to file reply to the aforesaid show-cause notice which has been issued by the Sub-Divisional Officer.

8. I have considered the submissions made by learned counsel for the parties. The so-called show-cause notice reads as under:-

"vr% vkidks funsZF"kr fd;k tkrk gS fd vki mDr olwyh ;ksX; jkf"k :i;s 2]04]550@ and iapk;r ds [kkrs esa tek dj viuk tokc fu;r@fnukad 20 and 08 and 2015 dks bl U;k;ky; esa mifLFkr gksdj izLrqr djsa] vU;Fkk dh n"kk esa vkids fo:) e0iz0 iap;krjkt ,oa xzke Lojkt vf/kfu;e 1993 dh /kkjk 92 ds vUrxZr dk;Zokgh dh tkdj vkids fo:) vuq"kkLukRed dk;Zokgh ,oa fuyacu dk izLrko ofj"B dk;kZy; dks Hkstk tkosxkA"

9. From perusal of the extract quoted above, it is evident that the liability of the petitioner has already been determined and the petitioner is being asked to deposit the amount and thereafter to file the reply upto 20.8.2015. The alleged notice dated 7.8.2015 by no stretch of imagination can be called to be a show-cause notice. Infact, it is an order directing the petitioner to deposit the amount first and then to submit the reply upto 20.8.2015 failing which, proceeding under Section 92 of the Act, 1993 shall be initiated against the petitioner. The impugned action is being taken in flagrant violation of principles of natural justice. The impugned communication i.e. show-cause notice dated 7.8.2015 does not fulfill the requirement of a valid notice in as much as, it does not contain the particulars of the grounds on which the proposed action is sought to be taken. Admittedly, the report prepared by the Chief Executive Officer, Janpad Panchayat Prithvipur, Distt. Tikamgarh, on which the show-cause notice is founded, has also not been supplied to the petitioner.

10. In view of preceding analysis, the impugned show-cause notice cannot be termed as show-cause notice, but is an order which has been passed in violation of principles of natural justice. It is accordingly quashed. Needless to state that respondent-authorities would be at liberty to take action against the petitioner in accordance with law.

11. Accordingly, the writ petition is allowed.

12. C.C. as per rules.