

(2020) 08 MP CK 0170
In the Madhya Pradesh High Court
Case No : Writ Petition No. 9705 Of 2020

Shashikant Rai

APPELLANT

Vs

High Court Of Madhya Pradesh & Another

RESPONDENT

Date of Decision : 26-08-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 294. 323, 325, 506
Constitution Of India, 1950 — Article 226

Citation : (2020) 08 MP CK 0170

Hon'ble Judges : Ajay Kumar Mittal, CJ;Anjuli Palo, J

Bench : Division Bench

Advocate : Ashish Vishwakarma, Pushpendra Yadav

Final Decision : Dismissed

Judgement

Ajay Kumar Mittal, CJ

1. The petitioner by filing this writ petition under Article 226 of the Constitution of India has prayed for quashing of an order dated 13/16.03.2020 (Annexure P-1) and Note-sheet entry No.1023/21-B (एक) dated 11.03.2020 (Annexure P-2) whereby on finding the petitioner ineligible for appointment on the post of Civil Judge, Class-II (Entry Level), his name has been deleted from the main select list.

2. According to the petitioner, in pursuance to an advertisement dated 17.12.2018 issued for filling 157 posts of Civil Judge, Class-II (Entry Level) Examination 2019, he appeared in the examination conducted for the same and successfully cleared all the three stages of the examination and his name appeared at serial No.143 of the select list but all of a sudden vide impugned order (Annexure P-1), it has been communicated that he has been found disqualified for the said post and by deleting his name from the merit serial No.143 of the main select list, his right for selection is closed. Since no reason was mentioned about such decision, the petitioner under the Right to Information Act, 2005 has been informed vide Annexure P-2, which contains various

note-sheets, that the petitioner though in his attestation form in column 14 (क, ख) mentioned about pendency of a Criminal Case No.949/2015 (arising out of Crime No.110/2015 registered under Sections 294, 506, 323/34 of IPC at Dindori) but he concealed about Crime No.68/2004 which was registered at Police Station Belbagh, Jabalpur for an offence under Sections 294, 323, 506, 325/34 of IPC and therefore, due to his involvement in the criminal cases, by a resolution passed by the Administrative Committee (M.P. Judicial Services) dated 27.02.2020, it has been resolved not to appoint the petitioner on the said post. Since the recommendation of the High Court is binding upon the State Government, therefore, the petitioner cannot be given appointment on the said post.

3. Learned counsel for the petitioner submitted that the petitioner had already given the information about pendency of one Criminal Case No.949/2015 in the attestation form and non-disclosure of antecedents regarding Crime No.68/2004 is a bona fide mistake on the part of the petitioner as the petitioner himself was not much aware of the said case which was falsely registered against his brother in which the petitioner was also roped in on account of family feud. Since the said incident had occurred almost 15 years ago, therefore, the petitioner had forgotten to mention about the same while filling the attestation form. The petitioner was not given any clear information by the police but by making his own effort he obtained the information and submitted the same to the respondents vide letter dated 21.11.2019 (Annexure P-4). In the case registered at Dindori the petitioner was falsely implicated at the instance of one Charan Singh Dhurve, Sarpanch of Gram Panchayat Ramnagar, who had developed enmity with one Rishabh Sikka, who was Engineer in the Department where the petitioner was working. There had been quarrel between them which was reported to the police by said Rishabh Sikka in which the petitioner had given his evidence and therefore, due to that reason, the said Sarpanch taking advantage of his political backing had got a false case registered against Rishabh Sikka and the petitioner. However, the petitioner has been ultimately acquitted in Criminal Case No.949/2015 vide judgment dated 17.09.2019 (Annexure P-5) whereas the Criminal Case No.551/2004 (arising from Crime No.68/2004 registered against the petitioner at Jabalpur) had ended up in his acquittal long back on 09.09.2005 itself and documents to this effect have been placed on record as Annexure P-13 and P-14. It being a bona fide mistake on the part of the petitioner and the petitioner having already furnished the entire information by a separate letter written to the respondents, the same ought to have been considered in just and proper manner.

4. The attestation form dated 26.07.2019 has been placed on record as Annexure P-3 wherein the information about the criminal cases registered and pending against an aspirant of the post has been sought at column No.14(Ka) and (Kha) and a perusal of the same shows that though the petitioner has given the information about pendency of a Criminal Case No.949/2015 (arising from Crime No.110/2015) before the Judicial Magistrate, First Class, Dindori but the

petitioner has not mentioned about another offence which was registered against him at Crime No.68/2004 at Jabalpur and had culminated in Criminal Case No.551/2004. The petitioner had suppressed material fact in the attestation form. Merely because the Crime No.68/2004 was registered on account of family dispute and the petitioner had been acquitted therein, is no ground to interfere with the impugned order, as the same has been passed solely in view of concealment of information which was quite material for selection on a judicial post. The sole purpose of asking for the information in the attestation form relating to registration of criminal cases, if any, is not to assess the nature or gravity of the offence or the outcome of the criminal case. Such information is sought to ascertain the character and antecedents of the aspirant or his suitability for the post. If such material information is concealed or any false information is given, the same would be in the nature of moral turpitude and regarded as a separate and distinct matter than what is involved in the criminal case.

5. That apart, it is not a case where the petitioner had given the complete information about the criminal cases registered against him and the fact of his acquittal but the same was not considered or his candidature was discarded on that ground by the respondents. In the facts and circumstances of the case, we are constrained not to exercise the discretionary jurisdiction under Article 226 of the Constitution of India to interfere with the impugned order Annexure P-1 and Note-sheet entry dated 11.03.2020 (Annexure P-2).

6. No other point was argued by the learned counsel for the petitioner.

7. In view of the foregoing reasons, no interference is called for and accordingly, the writ petition sans substance, is dismissed.