

**(2014) 06 MP CK 0163**  
**In the Madhya Pradesh High Court**  
**Case No : WP No. 20136/13**

Shyam Sunder Tekam

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

**Date of Decision :** 23-06-2014

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation :** (2014) 06 MP CK 0163

**Hon'ble Judges :** R.S. Jha, J

**Bench :** Single Bench

**Advocate :** Pramod Sahu, Learned Counsel, Advocate for the Appellant; S.S. Bisen, Learned Government Advocate, Advocate for the Respondent

**Final Decision :** Disposed Off

## Judgement

R.S. Jha, J.—Heard Shri Pramod Sahu, learned counsel for the petitioner and Shri S.S. Bisen, learned Government Advocate for the respondent/State on the question of admission.

2. The respondents have filed their return stating that the petitioner's appeal which is pending against the impugned order passed by the S.D.O., Chhindwara before the Collector Chhindwara, at the time of filing of the present petition has finally been decided by the Collector Chhindwara on 21.1.2014 and in such circumstances the petitioner has to avail alliterative efficacious remedy available to him under the rules.

3. The learned counsel for the petitioner, per contra submits that the petitioner had disclosed the fact of pendency of the appeal in the present petition and has raised the issue of jurisdiction and in such circumstances, the petitioner cannot be de-barred from filing the present petition.

4. Having heard the learned counsel for the parties, it is observed that the petitioner had filed this petition assailing the order passed by the S.D.O. dated 13.9.2013 inspite of the fact that an appeal against the said order was already

pending before the Collector Chhindwara, and this fact was disclosed by the petitioner in the petition. It is further observed that the during the pendency of the petition, the Collector has decided the appeal by dismissing the same vide order dated 21.1.2014 which order has not been assailed by the petitioner before this Court. It is further clear that the issue of jurisdiction raised by the petitioner would also require making of an inquiry into disputed question of fact which cannot be gone into by this Court in exercise of its extra ordinary jurisdiction under Articles 226/227 of the Constitution of India and therefore, in view of the existence of an alternative remedy it would be appropriate to permit the petitioner to assail the proceedings before the Additional Commissioner who will be in a position to go through the record and decide the issue of jurisdiction.

5. In view of the aforesaid circumstances, the petition filed by the petitioner is disposed of with liberty to the petitioner to take up further proceedings against the order passed by the Additional Collector Chhindwara, dated 21.1.2014 dismissing the appeal.

6. It goes without saying that in case the petitioner does file a revision before the authority concerned alongwith a certified copy of the order passed today and a copy of the petition within four weeks from today, the concerned authority shall consider and decide the same on merits in accordance with law and shall not dismiss only on the ground of limitation and delay.

7. The petition is accordingly disposed of with the aforesaid liberty.

8. C.C. as per rules.