
(2014) 07 MP CK 0321
In the Madhya Pradesh High Court
Case No : WP. 4393/2014

Vishwnath Sharma

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 25-07-2014

Acts Referred:

Citation : (2014) 07 MP CK 0321

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : D.S. Raghuvanshi, Advocate for the Appellant; Devendra Chaubey, Dy. Govt. Advocate, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Sujoy Paul, J.—IA No. 4430/2014 is taken up.

2. Considering the fact that all the petitioners have challenged the common order dated 08.07.2014 and cause of action for all the petitioner is same, IA is allowed.

3. Heard on admission.

4. Shri Raghuvanshi submits that this matter is identical to WP No. 4194/2014 which was disposed of by passing a detailed order.

5. Shri Chaubey has not refuted the aforesaid contention.

6. In WP No. 4194/2014 this Court opined as under:-

Heard.

Learned counsel for the petitioner submits that the petitioners have qualification of D. Ed./B. Ed. The petitioners are appointed prior to 2013-14. In Madhya Pradesh Panchayat Samvida Shala Shikshak " employment and Condition of Contract" Rule 2005 there is no requirement that issuing institution must be recognized by NCTE.

Shri Raghuvanshi submits that this is clear from the Rule 6(9)(C) as well as amended Rules as per Schedule II (page 45). In addition, he submits that this Court in batch of petitions in WP No. 1468/2013 (Diwan Singh Kushwah & Ors. Vs. State of M.P. & Ors.) directed the respondents to decide the representations seeking acceptance of certificate issued by Bhartiya Shiksha Parishad. It is submitted that respondents have erroneously held that Bhartiya Shiksha Parishad must be recognized by NCTE. Lastly, it is submitted that order is passed by Commissioner from Apex level by directing the inferior authorities to grant opportunity of hearing to the petitioners and then pass orders cancelling appointment of the petitioners. He submits that this is an empty formality and this opportunity is of no use for the concerned person.

Prayer is opposed by Shri Devendra Chaubey.

Relevant portion of Annexure P/1 reads as under:-

(Emphasis supplied)

I find force in the contention of Shri Raghuvanshi that in the manner opportunity is directed to be provided, it will be a futile exercise. If a decision is already taken at Apex level to cancel the appointment, no discretion is left with lower authorities to considered and accept the representation. As per principle of natural justice and "due process", this kind of hearing is of no meaning.

In the aforesaid circumstances, I deem it proper to dispose of this petition by directing the authorities to provide adequate opportunity to the petitioners, in the event they intend to proceed against the petitioner as per Annexure P/1. However, it is made clear that it will be lawful for the competent authorities to deal with petitioners' representation in accordance with law. Before taking any action, petitioners' defence be dispassionately considered. It is made clear that in decision making process and in ultimate decision, the respondents shall be bound by principle of natural justice. Decision must be taken dispassionately irrespective of ultimate direction of Commissioner that appointment be cancelled. In other words, the authorities dealing with the defence of the petitioners shall take decision in accordance with law on the basis of principle of natural justice and relevant Rules/law. They will not be influenced by the ultimate direction of the Commissioner that the appointment be cancelled. It is open to the petitioners to file detailed representation to put forth their defence.

With the aforesaid and without expressing any opinion on petitioners eligibility/entitlement, petition is disposed of.

7. Since the grievance of the petitioners is common, this petition is disposed of in terms of the order passed in WP No. 4194/2014.

8. It is made clear that this Court has not expressed any opinion on the merits of the case. Petition is disposed of.