IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 6th OF APRIL, 2023

WRIT PETITION No. 1254 of 2015

BETWEEN:-

VINEET KUMAR RATHAUR S/O SHRI OM PRAKASH RATHAUR, AGED ABOUT 29 YEARS, VILL. KESHAURA TEH. AMARPATAN DISTT. SATNA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI ANUJ SHRIVASTAVA - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH PRINCIPAL SECRETARY DEPARTMENT OF PANCHAYAT AND RURAL DEVELOPMENT VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **ADDITIONAL COMMISSIONER COMMISSIONER DIVISION REWA (MADHYA PRADESH)**

3. **COLLECTOR COLLECTOR DISTT. SATNA (MADHYA PRADESH)**

4. **CHIEF EXECUTIVE OFFICER JILA PANCHAYAT SATNA (MADHYA PRADESH)**

5. **CHIEF EXECUTIVE OFFICER JANPAD PANCHAYAT SATNA (MADHYA PRADESH)**

6. **SARPANCH GRAM PANCHAYAT MADHA TEH. AMARPATAN, DISTT. SATNA (MADHYA PRADESH)**

7. **KU. SUMAN SINGH W/O SHRI ARJUN SINGH R/O VILLAGE MADHA TEH. AMARPATAN, (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI SOURABH SONI - PANEL LAWYER FOR THE STATE)
(BY SHRI RJ ROOP PATEL - ADVOCATE FOR RESPONDENT NO.7)

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This petition coming on for admission this day, the court passed the following:

ORDER

Petitioner's case is that on 29.06.2010, a notice was issued by the Gram Panchayat, Madha, inviting applications for appointment of Panchayat Karmi. Last date for submission of applications was 06.07.2010. Petitioner had tried to submit an application but Sarpanch decline, therefore, petitioner had approached Sub Divisional Officer, Amarpartan, who made an endorsement on the application and directed the Panchayat to accept it on the same date. On 06.07.2010, application of the petitioner was received by the Gram Panchayat for appointment to the post of Panchayat Karmi in Gram Panchayat, Madha.

Petitioner's grievance is that instead of judging merits of the candidates who had applied, Gram Panchayat passed a resolution dated 07.08.2010 in favour of one Shri Shivram Singh over looking the merits of the petitioner. Petitioner made a representation to the Chief Executive Officer, Janpad Panchayat and then filed an appeal before the Sub Divisional Officer when the Sub Divisional Officer stayed the impugned resolution dated 07.08.2010. Appeal filed by the petitioner before Sub Divisional Officer was allowed vide order dated 12.01.2012. Shivram Singh filed a revision against this order of Sub Divisional Officer before the Commissioner, Rewa which came to be dismissed on 01.08.2013.

Vide order dated 22.01.2012, Chief Executive Officer, Jila Panchayat Satna directed the C.E.O. Janpad Panchayat, Amarpatan to ensure appointment of Panchayat Karmi on merits. But over looking these directives, on 19.02.2012, Annexure P-11, Gram Panchayat passed a resolution to appoint one Kumari Suman Singh, who was lower in merit than the petitioner. Thereafter, a

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complaint was made before the C.E.O., Janpad Panchayat. C.E.O., Janpad Panchayat, had informed CE.O., Jila Panchayat that appointment for the post of Panchayat Karmi had not been made a proposal under Section 86 of the Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 for undertaking appointment was made on 05.03.2014.

On 12.09.2014, C.E.O. Jila Panchayat, Satna issued letter directing that appointment be made strictly in compliance with the circular of the State Government dated 13.08.2007 but this directive was not followed and this direction was challenged by Kumari Suman Singh, respondent No.7 in an appeal before the Additional Commissioner, Rewa in which petitioner was not made a party and Additional Commissioner, Rewa allowed the appeal and held that since Gram Panchayat had already passed a resolution for appointment of Panchayat Karmi on the basis of resolution, therefore, C.E.O. Janpad Panchayat could not have directed the preparation of a merit panel.

It is submitted that law in this regard is well settled that appointments are to be made in accordance with merit and not on the basis of resolution simpliciter. Reliance is placed on a decision of this High court in **Jai Prakash Batham Vs. State of M.P. and Others, 2011(2) MPLJ 392** and a Division Bench decision of this High Court in **Suresh Vs. C.E.O, Jila Panchayat, Barwani and Others, 2011(4) MPLJ 717**.

Perusal of the resolution, Annexure P-11, it is evident that resolution was passed on the basis of the voting of the members of the Panchayat where 8 persons had given vote in favour of appointment of Suman Singh and 4 against her. Thus, it is evident that the said resolution is contrary to the circular issued by the State Government on 13.08.2007, copy of which is taken on record and which specifically provides that selection of Panchayat Karmi will be in

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accordance with the merits and the criteria prescribed in the said circular. When tested on the touch stone of the Government circular dated 13.08.2007 and the decision of Coordinate Bench and Hon'ble Division Bench decision in **Jai Prakash Batham (supra)** and **Suresh (supra)**, said resolution cannot be approved, therefore, the Additional Commissioner, Rewa acted arbitrarily in allowing the appeal filed by Kumari Suman Singh, respondent No.7, with out having taken into consideration the government orders dated 13.08.2007 and the decisions of this High Court. Therefore, neither the resolution passed by the Gram Panchayat nor the order of the Additional Commissioner can be sustained in the eyes of law, they are hereby quashed. Gram Panchayat is directed to complete the process of recruitment strictly following the norms provided in circular dated 13.08.2007 within further period of thirty days.

In above terms, this petition is disposed of.

Certified copy as per rules.

(VIVEK AGARWAL)
JUDGE

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