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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE PRANAY VERMA**

ON THE 24th OF APRIL, 2024

WRIT PETITION No. 10330 of 2024

BETWEEN:-

SHAILENDRA PORWAL

.....PETITIONER

(BY SHRI JAYESH GURNANI - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY DEPARTMENT OF URBAN ADMINISTRATION AND DEVELOPMENT GOVT OF M.P. VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)
2. JOINT DIRECTOR DIRECTORATE OF TOWN AND COUNTRY PLANNING HOUSING BOARD COMPLEX, A.B. ROAD, INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI KAPIL MAHANT - P.L. FOR STATE)

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

ORDER

1. By this petition preferred under Article 226 of the Constitution of India, the petitioner has challenged the order dated 13/7/2023 (Annexure P/4) passed by the Joint Director, Directorate of Town and Country Planning, Indore respondent No.2 whereby the representation preferred by him in light of order dated 25/1/2023 passed in W.P.No.1306/2023 has been decided.

2. The petitioner had earlier preferred a representation before respondent No.2 on 1/11/2022. Since the same was not being decided by respondent No.2 he approached this Court by way of W.P.No.1306/2023 which was disposed of by order dated 25/1/2023 with a direction to respondent No.2 to decide the pending representation dated 1/11/2022 within a period of 3 months from the date of receipt of certified copy of the order by affording due opportunity of hearing to all interested parties. It was also observed that it would be open for the petitioner to file a fresh application/relevant documents. The aforesaid order was produced by the petitioner before respondent No.2 and a fresh application (Annexure P/3) was also made by him on 28/3/2023.

3. By the impugned order the earlier application of the petitioner dated 1/11/2022 and the fresh application filed by him on 28/3/2023 have been decided. In the order it has been stated that notice of the proceedings was issued to the complainant Shri Vibhor Khandelwal, Advocate but he did not appear before respondent No.2. From a perusal of the entire order it is evident that respondent No.2 has considered Shri Vibhor Khandelwal to be the complainant in the case. The same is factually incorrect.

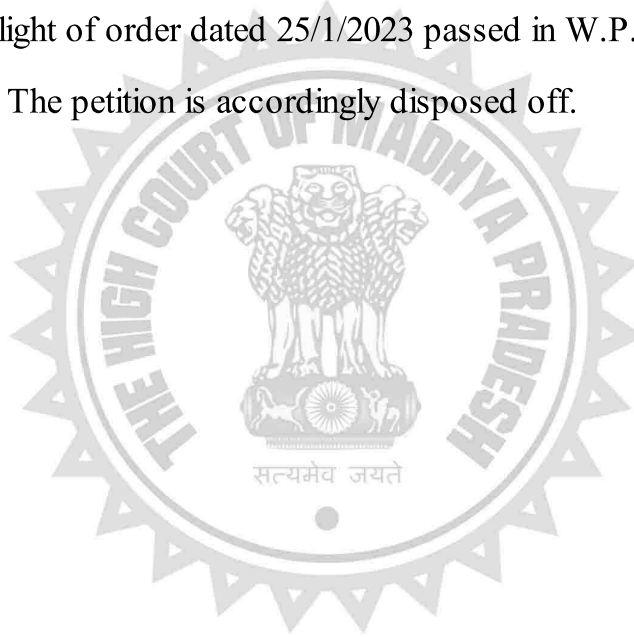
4. The complainant is the petitioner Shailendra Porwal and the earlier application made on 1/11/2022 was by him and so also was the subsequent application dated 28/3/2023. The same were made by the petitioner through Shri Vibhor Khandelwal, Advocate. Only for that reason it could not have been presumed that Shri Vibhor Khandelwal is the complainant in the case whereas he is only the counsel for the petitioner and the complainant remains to be the petitioner himself. Thus notices of the proceedings ought to have been issued to the petitioner and not his counsel. Recording in the impugned order that despite

issuance of notices to the petitioner on three occasions he has not appeared is hence factually incorrect. It was incumbent upon respondent No.2 to have issued notice to the petitioner and not to his counsel since in the earlier order dated 25/1/2023 there was a specific direction to afford opportunity of hearing to all interested parties which would also include the petitioner.

5. The impugned order hence having been passed without issuance of notice to the petitioner is in contravention to the order dated 25/1/2023 passed in W.P.No.1306/2023 hence consequently cannot be sustained and is hereby set aside. The matter is remanded back to respondent No.2 to decide the matter afresh in light of order dated 25/1/2023 passed in W.P.No.1306/2023.

6. The petition is accordingly disposed off.

SS/-



(PRANAY VERMA)
JUDGE