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WP-27685-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE AMIT SETH

ON THE 15th OF MAY, 2026WRIT PETITION No. 27685 of 2025*AZAM SHER KHAN**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Jitendra Sharma - Sr. Advocate with Shri Nikhil Bhatele -
Advocate for the petitioner.*

Shri Brajesh Kumar Tyagi - Govt. Advocate for respondents/State.
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ORDER

With the consent of parties matter is heard finally.

The instant writ petition filed under Article 226 of the Constitution of India seeks the following reliefs:

"i) That, the impugned order contained in Annexure-P/1 may kindly be quashed with all consequential effect and the respondents may kindly be directed to continue the petitioner as guest faculty (Architecture & Interior Design) till regular appointment as per the policy of the government and grant all consequential benefits.

(ii) That, cost of the petition be awarded or any other order deemed fit in the circumstances of the case be issued in favour of the petitioner."

2. Learned Sr.Counsel appearing for the petitioner submits that the petitioner was earlier posted as Guest Faculty Architecture and Interior Design in Government Women Polytechnic College, Padav, District



Gwalior. On the allegations of alleged misbehavior with the girl student in the college, services of the petitioner have been terminated without following principles of natural justice and without obtaining any sanction from the competent authority as prescribed in Circular dated 08.11.2023. He submits that a complaint was received by the respondents against alleged misbehavior by the petitioner with the girl students on 07.04.2025 Annexure P/6. A committee was constituted on the same day vide order dated 07.04.2025 and committee was directed to submit report within three days. Telephonic information was sent by the committee to the petitioner to appear before the committee. However, at the said point of time, the petitioner was kept in Police Station and his mobile was not in his custody therefore, he could not see as to what message was sent by the committee and committee in the hasty manner passed the order dated 08.04.2025 on the very next day whereby, services of the petitioner as Guest Faculty have been terminated by the stigmatic order. He submits that there is flagrant violation of principles of natural justice and prescribed procedure was not followed while passing the order on 08.04.2025 and therefore, the petition deserves to be allowed.

3. On the other hand, learned counsel appearing for the respondents/State submits that allegation made against the petitioner is that of sending objectionable message to a girl student and pressurizing her to talk with him, which is serious in nature looking to the duties conferred on the petitioner by virtue of his job i.e. a teacher posted in the girls college. The petitioner in his representation Annexure P/8 admitted the guilt and had tendered apology. In view whereof, the impugned order dated 08.04.2025



could not be faulted with.

4. At this stage, learned Sr.counsel appearing for the petitioner submits that the order impugned in the present case is stigmatic on the career of the petitioner and therefore, the appropriate interference is warranted.

5. Heard learned counsel for the parties and perused the record.

6. Admittedly, invitation of the petitioner is that for a Guest Faculty which is purely temporary in nature and for a particular academic session. The petitioner was working as a Guest Faculty in a Women college. The allegation levelled against the petitioner is of sending objectionable message to a girl student pressurizing her to talk with him. In his representation Annexure P/8, the petitioner has admitted that he tendered apology to the girl student.

7. The Apex Court in the Case of **M.S.Sanjay Vs. Indian Bank and Others** in Civil Appeal No.1188 of 2025 decided on 29.01.2025, in para 10, has held as under :

"10. It has been rightly observed that legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal Court of Appeal, which it is not. It is a settled principle of law that the remedy under Article 226 of the Constitution of India is discretionary in nature and in a given case,



even if some action or order challenged in the petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties."

[Emphasis Supplied]

8. The jurisdiction under Article 226 of the Constitution of India conferred on this Court is discretionary in nature and in a given case, even if some action or order challenged in the petition is found to be illegal and invalid, it is open for this Court to decline exercise of jurisdiction. In the given facts and discussion made herein above, this Court is not inclined to interfere in the impugned order in exercise of discretionary jurisdiction under Article 226 of the Constitution of India.

9. This Court deems it appropriate to dispose of the present writ petition with an observation that any finding recorded in the order of termination is only for the purposes of terminating the Guest Faculty invitation of the petitioner and shall not be taken into consideration for the purposes of future employment including invitation as Guest Faculty or as the case may be for which, the petitioner may apply for appointment. Such application of the petitioner shall be examined *dehors* the order of termination impugned in the present writ petition.

With the aforesaid, this petition stands disposed off.

(AMIT SETH)
JUDGE

