IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 17th OF JUNE, 2026

WRIT PETITION No. 12292 of 2025

MANOJ SINGH RAGHUWANSHI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Soumya Pawaiya - Advocate for petitioner.
Ms. Monika Mishra – Government Advocate for respondent/State.

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking the following relief (s):

> "a) Issue an appropriate writ, order, or direction quashing the impugned order dated 13.03.2025 (Annexure P-1) issued by Respondent No. 1.
>
> b) Pass such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice."

2. Learned counsel for the petitioner submits that petitioner was appointed as an Additional Government Pleader and Additional Government Advocate in the District Court, Shivpuri, vide order dated 17.06.2021. He was conducting prosecution on behalf of the State in Sessions Trial No. 75/2022 arising out of

Crime No. 204/2021 registered at Police Station Indar, District Shivpuri, for offences punishable under Sections 147, 148, 149 and 302 of the IPC. It is submitted that inadvertently, the name of an eyewitness, namely Shivendra Raghuvanshi, could not be included in the list of witnesses. Vide order dated 27.09.2022, learned Trial Court directed the State Counsel to verify why Rakesh Kevat, an eyewitness, was not being summoned. Upon realizing the omission, the matter was again taken up on 28.09.2022 and the Court was informed that the case was fixed before the Trial Court on 13.10.2022, on which date the names of the aforesaid eyewitnesses would be included in the list of witnesses. It is further submitted that after the examination of the aforesaid eyewitnesses, the Court dismissed the bail application vide order dated 14.11.2022 directing the Principal Secretary, Law and Legislative Affairs Department, to examine the conduct of petitioner and ascertain whether the withholding of the eyewitnesses was a deliberate act intended to provide an opportunity to the accused to influence the witnesses or merely an act of negligence. It is further submitted that pursuant to the aforesaid directions, a show-cause notice was issued to petitioner, to which he submitted a detailed reply. Thereafter, an inquiry report was prepared by the Secretary, Law Department, on 27.12.2022. It is further submitted that the fact-finding inquiry report was prepared without affording the petitioner any proper opportunity of hearing and on the basis of the said report, another show-cause notice was issued to him. Petitioner submitted his reply to the said show-cause notice and specifically stated that corrective steps had been taken immediately and the omitted witnesses were subsequently examined. The omission occurred purely due to inadvertence and was a case of mere oversight. It is further submitted that after a lapse of more than three years and without issuing any

further notice or affording any opportunity of hearing, the services of petitioner have been terminated by a stigmatic, non-speaking and unreasoned order. No regular departmental inquiry was conducted by the respondents prior to passing the impugned order. It is further submitted that it is a settled principle of law that a stigmatic order of termination can be passed only after conducting a regular departmental inquiry. In the present case, the termination order has been passed solely on the basis of a fact-finding inquiry, in which the petitioner was neither afforded an adequate opportunity of hearing nor given any opportunity to cross-examine witnesses. Therefore, the services of petitioner could not have been terminated by way of a stigmatic order on the basis of such a fact-finding inquiry report.

3. *Per contra*, learned learned counsel for respondent/State support the impugned order and submitted that after considering the inquiry and reply, the impugned order has rightly been passed by the respondent.

4. Heard learned counsel for the parties and perused the material available on record.

5. Perusal of record reveals that petitioner was appointed as an Additional Government Pleader and Additional Government Advocate in the District Court, Shivpuri, vide order dated 17.06.2021. Petitioner was conducting prosecution on behalf of the State in Sessions Trial No. 75/2022 arising out of Crime No. 204/2021 registered at Police Station Indar, District Shivpuri, for offences punishable under Sections 147, 148, 149 and 302 of the IPC. Inadvertently, the name of an eyewitness, namely Shivendra Raghuvanshi, could not be included in the list of witnesses. Vide order dated 27.09.2022, learned Trial Court directed

the State Counsel to verify why Rakesh Kevat, an eyewitness, was not being summoned. Thereafter, the matter was again taken up on 28.09.2022 and the Court was informed that the case was fixed before the Trial Court on 13.10.2022, on which date the names of the aforesaid eyewitnesses would be included in the list of witnesses. After the examination of the aforesaid eyewitnesses, the Court dismissed the bail application vide order dated 14.11.2022 directing the Principal Secretary, Law and Legislative Affairs Department, to examine the conduct of petitioner and ascertain whether withholding of eyewitnesses was a deliberate act intended to provide an opportunity to the accused to influence the witnesses or merely an act of negligence. Pursuant to the aforesaid directions, a show-cause notice was issued to petitioner. Thereafter, he submitted a detailed reply. Thereafter, an inquiry report was prepared by the Secretary, Law Department, on 27.12.2022 without affording the petitioner any proper opportunity of hearing and on the basis of the said report, another show-cause notice was issued to him. Petitioner submitted his reply to the said show-cause notice and specifically stated that corrective steps had been taken immediately and the omitted witnesses were subsequently examined. The omission occurred purely due to inadvertence and was a case of mere oversight. After a lapse of more than three years and without issuing any further notice or affording any opportunity of hearing, the services of petitioner have been terminated by a stigmatic, non-speaking and unreasoned order. No regular departmental inquiry was conducted by the respondents prior to passing the impugned order. It is a settled principle of law that a stigmatic order of termination can be passed only after conducting a regular departmental inquiry. In the present case, the termination order has been passed solely on the basis of a fact-finding inquiry, in which petitioner was

neither afforded an adequate opportunity of hearing nor given any opportunity to cross-examine witnesses. The relevant part of the impugned order 13.5.2025 (annexure P/1) is quoted below for ready reference and convenience:

> "फा० क0 1128/2025/21–ब (दो), राज्य शासन एतदेद्वारा, द्वारा विभाग के समसंख्यक आदेश दिनांक 17.06.2021 द्वारा नियुक्त अतिरिक्त लोक अभियोजक /अतिरिक्त शासकीय अधिवक्ता जिला शिवपुरी श्री मनोज सिंह रघुवंशी के द्वारा सत्र प्रकरण कांक 75/2022 के संचालन में गभीर लापरवाही करने के आधार पर तत्काल प्रभाव से पदमुक्त करता है।"

6. The services of petitioner have been terminated without holding any enquiry. Since impugned order dated 13.3.2025 (annexure P/1) is stigmatic in nature, therefore, regular departmental enquiry ought to have been held by respondents. The judgment passed by Co-ordinate Bench of this Court in **WP No.23267/2019 (Omprakash Gurjar vs. Panchayat and Rural Development & Ors.)**, also the order dated 12.09.2023 passed in **WP No.19117/2022 (Hukumchand Solanki vs. Panchayat and Rural Development & Ors.)** and the order dated 19.07.2023 passed in **WP No.14663/2022 (Arvind Malviya vs. State of MP & Ors.)** are worth mentioning.

7. The Division Bench of this Court in the case of **Rahul Tripathi Vs. Rajeev Gandhi Shiksha Mission, Bhopal & Others** reported in **2001(3) MPLJ 616** and **Jitendra Vs. State of M.P. & Others** reported in **2008(4) MPLJ 670** has rightly held that the order of termination is stigmatic in nature as the same entails serious consequences on future prospects of respondent and therefore, the same ought to have been passed after holding an inquiry. This Court is further supported in its view by the judgment passed by Division Bench of this Court in the case of **Malkhan Singh Malviya Vs. State of M.P**. reported in **ILR(2018)**

MP 660. The Apex Court while deciding the case of **Khem Chand vs. The Union of India and Ors.** reported in **1958 SC 300,** had an occasion to summarize the concept of reasonable opportunity, relevant para of which reads as under:-

> "(19) To summarize: the reasonable opportunity envisaged by the provision under consideration includes-
>
> (a) An opportunity to deny his guilt and establish his innocence, which he can deny only do if he is told what the charges levelled against him are and the allegations on which such charges are based;
> (b) an opportunity to defend himself by cross-examining the witnesses produced against him and by examining himself or any other witnesses in support of his defence;
> (c) an opportunity to make his representation as to why the proposed punishment should not be inflicted on him, which he can only do if the competent authority, after the enquiry is over and after applying his mind to the gravity or otherwise of the charges proved against the government servant tentatively proposes to inflict one of the three punishments and communicates the same to the government servant."

8. From the aforesaid, it is clear that impugned order is stigmatic in nature, therefore, without conducting regular departmental enquiry impugned order cannot be issued. The impugned termination order has been issued without giving any proper opportunity of hearing to petitioner and without conducting departmental enquiry. From the language of impugned order, it is clear that it is a stigmatic termination order.

9. It is settled position that if the order of termination is stigmatic in nature, the same entails serious consequences on future prospects of the petitioner and

therefore the same ought to have been passed after holding an enquiry. In **Arvind Malviya (supra)**, it is held as under:-

> "3) After hearing learned counsel for the parties and taking into consideration the fact that the present petition is covered by the order dated 25/4/2022 passed in WP No.23267/2019 (Omprakash Gurjar (supra)), the present petition is allowed. The impugned order is hereby set aside. The respondents are directed to reinstate the petitioner in service with 50% backwages within a period of 2 months from the date of communication of the order. However, liberty is granted to the respondents to proceed against the petitioner afresh in accordance with law, if so advised. The said order passed in W.P. No.23267/2019 shall apply mutatis mutandis to the present case."

10. The Division Bench of this Court, at Principal Seat, Jabalpur, in the case of **Rajesh Kumar Rathore vs. High Court of M.P. and another (W.P. No.18657 of 2018)** vide order dated 23/11/2021 has held as under:-

> "6. The short question of law involved in the present case is as to whether the services of an employee under the Rules relating to Recruitment and Conditions of Service of Contingency Paid (District and Sessions Judge Establishment) Employees Rules, 1980, can be terminated without conducting a departmental enquiry when an order of termination casts stigma on the employee.
>
> 7. We are in full agreement with the legal position expounded in various judgments cited by the learned counsel appearing for the respondent. However, in the instant case, the question that arise for consideration, as stated above, is squarely covered by the decision of co-ordinate bench of this Court in the case of Krishna Pal Vs. District & Sessions Judge, Morena (supra). In the present case, it is an admitted fact that neither charge-sheet was issued nor departmental enquiry was conducted and order of termination attributes dereliction of duty amounting to misconduct, and hence, the same is clearly stigmatic order. The petitioner's services are admittedly governed under the Rules of 1980. If the facts and situation of the present case

is examined in the context of the facts and situation of the case of Krishna Pal (supra), it is found that this Court had taken a view (para-5 of the said judgment) that Normally when the services of a temporary employee or a probationer or contingency paid employee is brought to an end by passing innocuous order due to unsatisfactory nature of service or on account of an act for which some action is taken, but the termination is made in a simplicitor manner without conducting of inquiry or without casting any stigma on the employee, the provisions of Rule 9 of the Rules 1980 can be taken aid of. However, when the termination is founded on acts of commission or omission, which amounts to misconduct. Such an order casts stigma on the conduct, character and work of the employee and hence, the principle of natural justice, opportunity of hearing and inquiry is requirement of law.

8. In view of the aforesaid pronouncement of law, we are not inclined to take a different view, therefore, in view of the aforesaid, the impugned order dated 06.06.2017 (Annexure-P-6) and order dated 20.06.2018 (Annexure-P-9) are set aside."

11. The co-ordinate Bench of this Court vide order dated 02.02.2024 passed in **WP.5856/2020 [Devkaran Patidar Vs. State of M.P. And others (Indore Bench)]** has also decided the similar issue in the following manner:

4. Learned counsel for the petitioner submits that the impugned orders are illegal and arbitrary. He further submits that the respondent no.4 without considering the provisions of 15.01, 15.02 and 16 of the scheme according to which the respondent no.4, is not empowered to terminate the service of the petitioner, and the aforesaid impugned order Annexure-P/1 has been wrongly uphold. He further submits that the respondents have acted in high handed manner and without following the instructions/guidelines issued by the Higher Authorities, issued the impugned termination order. Thus, the action of the respondents is unjust and arbitrary. In the present case, neither any charge-sheet has been issued against the petitioner nor any enquiry has been conducted before passing of the impugned stigmatic order. In such circumstances, he prays that the impugned orders be set aside. He further relied on the judgment passed by this Court in the

case of ***Rahul Tripathi vs. Rajeev Gandhi Shiksha Mission, Bhopal 2001 (3) MPLJ 616 and Prakash Chandra Kein vs. State of M.P. and others 2010 (3) MPLJ 179.***

5. The respondents have filed the reply and has submitted that a number of complaints has been received against the petitioner. After receiving the complaints a Committee was constituted for conducting an enquiry against the petitioner and on the basis of the enquiry report submitted by the Committee a show cause notice was issued to the petitioner and after giving opportunity to the petitioner to file reply, the respondent has terminated the services. In such circumstances, the petition deserves to be dismissed.

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

7. In the present case, admittedly, the petitioner is working on the post of Gram Rojgar Sahayak and neither any charge-sheet has been issued to the petitioner at any point of time nor any enquiry was conducted with the participation of the petitioner. This Court has passed the judgment in the case of ***Ramchandra vs. State of M.P. and others decided in W.P. No.16572/2014 on 02/08/2017*** and several other writ petitions on the subject are under consideration before this Court.

8. In the light of the aforesaid as no charge-sheet was issued to the petitioner and no enquiry has been conducted, the impugned orders dated 12.06.2017(Annexure-P/1) and 27.08.2016(Annexure-P/2), passed by the respondents deserves to be quashed and are accordingly, quashed. The respondents are directed to reinstate the petitioner in service; however a liberty is granted to proceed against the petitioner in accordance with law, in case if need so arises in future.

12. It is a settled position in law that when a discretion is vested in an authority to exercise a particular power, the same is required to be exercised with due diligence, and in reasonable and rational manner. The Hon'ble Supreme Court in catena of decisions has reiterated time and again the necessity and importance of giving reasons by the authority in support of its decision. It has been held that the

face of an order passed by a quasi-judicial authority or even by an administrative authority affecting the rights of parties must speak. The affected party must know how his case or defence was considered before passing the prejudicial order.

13. The decision of the Hon'ble Supreme Court in the case of **State of Punjab v/s. Bandip Singh and others reported in (2016) 1 SCC 724** is relevant to quote. In the said decision it had been held by the Hon'ble Supreme Court that every decision of an administrative or executive nature must be a composite and self-sustaining one, in that it should contain all the reasons which prevailed on the official taking the decision to arrive at his conclusion.

14. In the same judgment in paragraph 7, the Hon'ble Supreme Court clarifies that the Government does not have carte blanche to take any decision it chooses to; it cannot take a capricious, arbitrary or prejudiced decision. Its decision must be informed and impregnated with reasons. Paragraph 7 of the said decision is quoted as under:-

> "7. The same principle was upheld more recently in Ram Kishun v. State of U.P. (2012) 11 SCC 511 : (2013) 1 SCC (Civ) 382. However, we must hasten to clarify that the Government does not have a carte blanche to take any decision it chooses to; it cannot take a capricious, arbitrary or prejudiced decision. Its decision must be informed and impregnated with reasons.
>
> This has already been discussed threadbare in several decisions of this Court, including in Sterling Computers Ltd. v. M & N Publications Ltd (1993) 1 SCC 445, Tata Cellular v. Union of India (1994) 6 SCC 651, Air India Ltd. v. Cochin International Airport Ltd. (2000) 2 SCC 617, B.S.N. Joshi & Sons Ltd. v. Nair Coal Services Ltd. (2006) 11 SCC 548 and Jagdish Mandal v. State of Orissa (2007) 14 SCC 517" 31.

15. Also the decision of the Hon'ble Supreme Court in the case of ***Kranti Associates Pvt. Ltd. and another v/s Masood Ahmed Khan and others cited in (2010) 9 SCC 496*** highlights this point. The Hon'ble Supreme Court in paragraph 15 opined that the face of an order passed by a quasi judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the inscrutable face of a sphinx. In paragraph 47 the Honb'le Supreme Court summarized its discussion. The relevant subparagraphs of the said summary are quoted as under:-

> "**47.** Summarising the above discussion, this Court holds:
>
> (a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
> (b) A quasi-judicial authority must record reasons in support of its conclusions.
> (c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
> (d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
> (e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.
> (f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
> (g) Reasons facilitate the process of judicial review by superior courts.
> (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.
> (i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one

common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* [(1987) 100 Harvard Law Review 731-37].)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights andwas considered part of Strasbourg Jurisprudence. See *Ruiz Torija* v. *Spain* [(1994) 19 EHRR 553] EHRR, at 562 para 29 and *Anya* v. *University of Oxford* [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process"."

10. The Hon'ble Supreme Court in the case **Oryx Fisheries Pvt.Ltd vs Union Of India & Ors; (2010) 13 SCC 427** has held as under:-

"41. In M/s Kranti Associates (supra), this Court after considering various judgments formulated certain principles in para 51 of the judgment which are set out below

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or `rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions". o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

42. In the instant case the appellate order contains reasons. However, absence of reasons in the original order cannot be compensated by disclosure of reason in the appellate order.

43. In Institute of Chartered Accountants of India v. L.K. Ratna and others, (1986) 4 SCC 537, it has been held:

".....after the blow suffered by the initial decision, it is difficult to contemplate complete restitution through an appellate decision. Such a case is unlike an action for money or recovery of property, where the execution of the trial decree may be stayed pending appeal, or a successful appeal may result in refund of the money or restitution of the property, with appropriate compensation by way of interest or mesne profits for the period of deprivation. And, therefore, it seems to us, there is manifest need to ensure that there is no breach of fundamental procedure in the original

proceeding, and to avoid treating an appeal as an overall substitute for the original proceeding."

44. For the reasons aforesaid, this Court quashes the show cause notice as also the order dated 19.03.2008 passed by the third respondent. In view of that, the appellate order has no legs to stand and accordingly is quashed."

16. In light of the aforesaid discussion, it is evident that no charge-sheet was issued to the petitioner and no regular departmental enquiry was conducted. The impugned order, being stigmatic, non-speaking, and unreasoned, has been passed without following due process.

17. Keeping in view the facts and circumstances of the case, this petition is allowed and disposed of in following terms:

(i) The impugned termination order dated 13.03.2025 (Annexure P-1) is hereby set aside;

(ii) The respondents are directed to reinstate the services of petitioner; and

(iii) However, the respondent/State shall be at liberty to take appropriate action against the petitioner in accordance with law, if so advised.

(Anand Singh Bahrawat)
Judge

Ahmad