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WP-9838-2019

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 6th OF JULY, 2026WRIT PETITION No. 9838 of 2019

RKJ

*Versus**THE STATE OF M.P. AND OTHERS*

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Appearance:

*Shri Kabeer Paul - Advocate for the petitioner.**Ms. Kanak Gaharwar - Government Advocate for the respondent**No.1.**Shri Siddharth Seth - Advocate for the respondent No.2.*
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ORDER

Per. Justice Anand Pathak

This Writ Petition under Article 226 of the Constitution of India challenges the communication dated 14.01.2019 (Annexure P/1) issued by respondent No.2, and the consequential order dated 08.02.2019 (Annexure P/2) passed by respondent No.1. By the impugned orders, the petitioner's candidature for the post of District Judge (Entry Level) in the M.P. Higher Judicial Service (Direct Recruitment from Bar) Examination-2017 was rejected, and his name was expunged from the provisional waiting list on the ground of unsuitability.

2. Relevant facts for adjudication are that the petitioner applied for the



recruitment pursuant to an advertisement dated 09.03.2017 (Annexure P/4). He cleared the Preliminary and Main Written Examinations. While submitting his detailed application form dated 05.06.2017 (Annexure P/5) and a subsequent attestation affidavit dated 26.08.2017 (Annexure P/6), petitioner disclosed his past involvement in two old criminal cases registered in the year 2002. Upon final declaration of the results on 22.03.2018 (Annexure P/7), the petitioner secured 234 marks out of 450 and was placed at Serial No. 7 in the waiting list of unreserved candidates.

3. Despite his high merit and transparent disclosure, the Administrative Committee resolved not to recommend the petitioner's case for appointment due to the two criminal cases from 2002, notwithstanding that they had ended in acquittal. Acting on this resolution, respondent No.1 issued the impugned order dated 08.02.2019 (Annexure P/2), expunging his name from the waiting list.

4. Shri Kabeer Paul, learned counsel for the petitioner, argued that the impugned action is arbitrary and non-compliant with the principles of natural justice. The two criminal cases Crime No. 100/2002 (under Sections 323, 294, 427, 506-II/34 IPC) and Crime No. 101/2002 (under Sections 294, 506-II IPC) were registered at Police Station Civil Lines, Sagar, during the petitioner's student days over a minor altercation in a university hostel mess regarding food quality. No serious assault or deadly weapons were involved. Both cases were compounded between the parties, resulting in a full acquittal by the competent Magistrate in 2005. Counsel highlighted that the incident is over 16 years old, the petitioner otherwise had a clean academic and



professional record since, and has practiced actively as an advocate for over a decade.

5. Furthermore, the Superintendent of Police and Inspector General of Police, Sagar, in their character verification report dated 01.12.2018 (Annexure P/9), explicitly declared the petitioner suitable for government service.

6. The petitioner raised a strong plea of discrimination under Article 14, pointing out that a co-accused in the very same criminal incident of 2002, namely AS, who faced identical prosecution under the same FIRs and was similarly acquitted by compromise, was appointed to the judicial service by this High Court in 2010 and is presently serving as a District Judge at Ratlam. The petitioner also relied on a co-ordinate Division Bench judgment dated 19.06.2025 in W.P. No. 8063/2019 (**Virendra Pratap Singh vs. State of M.P.**), which granted relief under identical circumstances. He cited the Supreme Court rulings in **Avtar Singh vs. Union of India (2016) 8 SCC 471** and **Mohammed Imran vs. State of Maharashtra (2018) SCC OnLine SC 1943** to argue that minor, old student-era incidents should not permanently disqualify a candidate.

7. Per contra, Shri Siddharth Seth, learned counsel for respondent No.2, and the learned Government Advocate for respondent No.1, contended that inclusion in a waiting list creates no vested right to appointment. They argued that a District Judge occupies a position of public trust requiring exceptional integrity, making the standards of character scrutiny higher than ordinary civil posts. They maintained that an acquittal based on a



compromise or compounding is not an 'honorable acquittal' on merits. Relying on the Full Bench decision of this Court in **Ashutosh Pawar vs. High Court of M.P. 2018 (2) MPLJ 419** and the Apex Court rulings in **UT Chandigarh vs. Pradeep Kumar (2018) 1 SCC 797**, they argued that the Administrative Committee retains absolute constitutional discretion under Article 235 to assess suitability, which is immune to judicial review in the absence of mala fides.

8. Heard the counsel for parties at length and perused the record.

9. This is a case where petitioner, as an aspirant for Madhya Pradesh Higher Judicial Service (Entry Level), is seeking appointment in pursuance to earlier successful clearance of Madhya Pradesh Higher Judicial Service (Entry Level) Direct Recruitment from Bar Examination-2017. Admittedly petitioner was in waiting list at serial number 7 with roll number 1110 under U.R. Category. He scored 234.20 marks out of 450.

10. Rejection of candidature and refusal to give appointment was on the ground that two cases against petitioner, one vide Crime No. 100/2002 under Sections 323, 294, 427 and 506(II) of IPC and another case vide Crime No. 101/2002 under Sections 294, 506 (II) of IPC were faced by petitioner in which parties entered into compromise. Resultantly, trial ended in acquittal.

11. One Circular dated 24.07.2018 is filed by petitioner as Annexure P/8 issued to all concerned departments by Home Department, Government of Madhya Pradesh, in which fresh guidelines are issued regarding character verification. By the said Circular, it has been mentioned in Clause II(A) that if a case registered against a candidate is of simple nature and he is acquitted



from the trial Court and if he has or has not mentioned this fact in his verification form, his candidature shall be treated suitable for Government service. With the effect of said Circular, the earlier Circular dated 05.06.2003 was nullified. Alongwith the said circular, Annexure A was attached, which contains list of offences consisting moral turpitude.

12. Perusal of said list indicates that even the State Government did not find offences under Sections 294, 323, 427 and 506(II) of IPC as offences consisting of moral turpitude. Therefore, being guided by the spirit of said circular dated 24.07.2018, I.G. (Special Branch), Bhopal, has referred to Secretary, Law and Legislative, about suitability of petitioner for Government job because as per contents of said letter, the petitioner was found suitable for Government job and, rightly so, because all offences levelled against petitioner did not constitute moral turpitude. Even the facts of the case are such which do not convey Moral Depravation or Intent Driven Crime.

13. Genesis of crime is material while ascertaining the exact nature of offences faced by a person in a criminal trial. Here, petitioner when pursuing his L.L.B. course resided in hostel. In hostel mess, quality of food was bad, therefore, agitated students held demonstration in front of the Officers of University, which precipitated the chain of events, in which allegation against other co-accused and petitioner was regarding holding of demonstration. Nothing less, nothing more.

14. At that time, when a person is young and studying in hostel may be compelled by the circumstances, may participate (may be by compulsion/



peer pressure) without any *mens rea* to commit crime. Such incidents are to be seen in context with perspective. Otherwise, essence of the situation would be overlooked. In fact, even Hon'ble Supreme Court in the case of *Avtar Singh vs. Union of India, 2016 (8) SCC 471*, in its concluding para 38.4.1, held that in a case of trivial nature, in which conviction had been recorded such as shouting, slogans at young age or for a petty offence, which if disclosed would not have rendered any incumbent unfit for the post in question, Employer may, in its discretion, condone the lapse of even suppression of fact.

15. When Apex Court focusing on aspect of trivial nature of offence for condonation of lapse of suppression of facts even, then apparently, the present petitioner stands on a better footing because he disclosed the information in his verification form. Hon'ble Apex Court in para 29 of *Avtar Singh's case (supra)* has stressed over the interplay of reformatory theory viz-a-viz general application of cancellation of candidature. Para 29 is reads as under:-

"29. The 'McCarthyism' is antithesis to constitutional goal, chance of reformation has to be afforded to young offenders in suitable cases, interplay of reformatory theory cannot be ruled out in toto nor can be generally applied but is one of the factors to be taken into consideration while exercising the power for cancelling candidature or discharging an employee from service."

16. Although, Full Bench Decision of this Court in the case of *Ashutosh Pawar vs. High Court of M.P. and another, 2018(2) MPLJ 419 (F.B.)* may haunt the petitioner but, at the same time, some facts may cast



distinction. One fact is that the then appellant Ashutosh Pawar suffered criminal case under Sections 452, 294, 324/34, 323/34 and 506(B) of IPC and another case for offences under Sections 294, 323/34 and 506(B) of IPC commenced before Juvenile Justice Board and said case resulted into admonition. Beside that said order by Full Bench was passed on 12.01.2018.

17. At that point of time, policy dated 05.06.2003 of State Government was prevailing; whereas in the present case, policy dated 24.07.2018 came into prevalence, which keeps out these offences against petitioner from the purview of moral turpitude. Not only this, in the present case, I.G. (Special Branch), Bhopal, itself gave certificate of suitability to the petitioner considering the nature of offences faced by petitioner.

18. Even in the case of *Ashutosh Pawar (supra)*, Full Bench opined that competent authority has to take a decision in respect of suitability of candidate to discharge the functions of a civil post. [See para 32 of *2018(2) MPLJ 419 (F.B.)*]

19. It is true that this Court cannot issue directions directly for appointment but can only issue directions for consideration, if case is found worthy of consideration. Here, the case appears to be such where competent authority is required to reconsider the whole gamut of facts and circumstances of the case.

20. One more aspect which prevails in favour of petitioner is that petition filed by one candidate of same batch, namely Virendra Pratap Singh was allowed by a Coordinate Division Bench vide order dated 19.06.2025 in W.P. No. 8063/2019 (*Virendra Pratap Singh Vs. State of Madhya Pradesh*) .



In the said writ petition a direction was given by the Bench for consideration of case afresh and, after due consideration, respondent no.2 issued appointment order vide order dated 25.03.2026 from the date of assuming the charge by him (vide Annexure IA/2 filed with application.)

21. One more candidate AD appearing for Civil Judge Class-II (Entry Level) Exam, 2017 was given the said benefit of consideration, was found suitable for the post of Civil Judge, Class-II (Entry Level) Exam, 2017; whereas he faced offence under Section 325/34 of IPC and was acquitted on the basis of compromise because offence under Section 325 of IPC do not fall under the ambit of moral turpitude as per circular dated 24.07.2018. Said candidate AD was given appointment vide order dated 11/05/2019 (Annexure IA/4 filed with application), therefore, at present he is in service.

22. One most interesting fact about the present case is that one of the co-accused persons with petitioner in one of the crime numbers, namely AS, was also appointed as Judicial Officer on 20.07.2010 and he is presently serving as Additional District & Sessions Judge. According to petitioner, his case also resulted into acquittal owing to the compromise. All these cases support the cause of petitioner.

23. In the cumulative analysis, in facts and circumstances of the case, no other inference can be drawn except to set aside order dated 14.01.2019 passed on behalf of Principal Registrar (Vigilance) (Annexure P/1) and order dated 08.02.2019 issued by Principal Secretary, Law and Legislative Affairs Department (Annexure P/2), whereby candidature of petitioner and right to



be appointment is closed. Both these impugned orders are hereby set aside.

Case of petitioner is remanded for consideration afresh by the competent authority/Full Court in view of the discussion made by this Court hereinabove.

24. Looking to the long lapse of time, an early consideration is expected.

25. Petition stands allowed and disposed of in above terms.

(ANAND PATHAK)
JUDGE

(B. P. SHARMA)
JUDGE

DevS/skt