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

**BEFORE
HON'BLE SHRI JUSTICE VIVEK RUSIA**

ON THE 28th OF FEBRUARY, 2024

WRIT PETITION No. 8121 of 2023

BETWEEN:-

DR. ASHOK VERMA

.....PETITIONER

(BY SHRI L. C. PATNE - ADVOCATE.)

AND

- 1. THE STATE OF MADHYA PRADESH, THROUGH SECRETARY TO THE GOVERNMENT OF MADHYA P R A D E S H , DEPARTMENT OF HIGHER EDUCATION, VALLABH BHAWAN MANTRALAYA, DISTRICT BHOPAL 462 004 (MADHYA PRADESH)**
- 2. THE COLLECTOR, DISTRICT BARWANI (MADHYA PRADESH)**
- 3. THE SUB DIVISIONAL OFFICER (REVENUE), SENDHWA, TEHSIL SENDHWA, DISTRICT BARWANI (MADHYA PRADESH)**
- 4. THE PRINCIPAL, GOVERNMENT COLLEGE, SENDHWA, DISTRICT SENDHWA (MADHYA PRADESH)**
- 5. SHRI PARIKSHIT SHARMA**

.....RESPONDENTS

(RESPONDENTS NO.1 TO 4 - STATE OF MADHYA PRADESH BY SHRI SUDHANSHU VYAS - ADVOCATE APPEARING ON BEHALF OF

ADVOCATE GENERAL.

NONE APPEARS FOR RESPONDENT NO.5, THOUGH SERVED.)

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

ORDER

The petitioner has filed this petition under Article 226 of Constitution of India being aggrieved by order dated 20/21.02.2023 (Annexure P/8) passed by respondent No.3 - Sub Divisional Officer (Revenue), Sendhwa, District Barwani (M.P.) thereby directing respondent No.4 – Principal, Government College, Sendhwa, District Barwani (M.P.) to lodge an First Information Report (FIR) against the petitioner.

2. Facts of the case in short are, as under: -

2.1 In the year 2013, the petitioner was posted as Professor, Government Post Graduate College Sendhwa, District Barwani (M.P.) and In-charge Principal, being a Class-I Gazetted Officer. His wife Smt. Nirmala Verma wanted to take admission in Bachelor of Education (B.Ed.) College, therefore, the petitioner issued a certificate dated 18.03.2013 (Annexure P/1), certifying that he is a domicile of State of Madhya Pradesh and Smt. Nirmala Verma is residing with him. She filled a form for admission in B.Ed. Course in January, 2013. She was allotted a non government education institution – Swami Vivekanand Shiksha Mahavidyalay, Sendhwa, District Barwani run by Shiksha Prasarak Samiti.

2.2 After seven years i.e. on 05.02.2020, respondent No.5 claiming himself to be a RTI Adventist submitted a complaint to Sub Divisional Magistrate, Sendhwa, District Barwani (M.P.) vide Annexure P/2 alleging that this petitioner illegally issued a forged Domicile Certificate to his wife for taking admission in B.Ed. Course, therefore, penal action be taken for this corruption. A copy of

this letter was sent to as many as 21 Government Officers including Chief Minister, Governor and Home Minister etc. of the State of Madhya Pradesh.

2.3 On 05/08.07.2020, the Sub Divisional Officer (Revenue), Sendhwa, District Barwani constituted a Three Members Committee comprising (1) Sub Divisional Officer, Water Resources Department, Sendhwa, (2) Tehsildar, Tehsil Sendhwa and (3) Divisional / Circle Organizer, Block Development Education Office, Sendhwa. The Committee submitted its report dated 03.10.2020 (Annexure P/4) to the effect that the contents of Domicile Certificate are correct, but the petitioner had no authority to issue such a certificate. The SDO, Sendhwa, District Barwani submitted / forwarded the report to the Collector, Barwani vide letter dated 09.10.2020 (Annexure P/5).

2.4 Respondent No.5 submitted a complaint in CM Helpline also; and thereafter vide letter dated 20/21.02.2023, the SDO, Sendhwa, District Barwani directed the Principal, Government Post Graduate College, Sendhwa, District Barwani (M.P.) to lodge / register an FIR against the petitioner. Hence, the present petition before this Court. जयते

3. Vide order dated 10.04.2023, this Court has restrained the respondents to register an FIR against the petitioner in compliance of letter dated 20/21.02.2023.

4. Respondents No.1 to 4 – State of Madhya Pradesh filed a detail reply in order to justify their action.

5. The SDO, Sendhwa (respondent No.3) filed a separate reply to justify his action by submitting that the petitioner as well as his wife both have not followed the Rules for taking admission in B.Ed. Course. They ought to have submitted a Domicile Certificate issued by the Competent Authority i.e. SDO for admission in B.Ed. Course. The petitioner misused the letter pad of

Government College for issuing a Domicile Certificate, without any authority. The SDO has collected all the documents from the concerned B.Ed. College, which were annexed along with application form by the petitioner's wife to justify that an FIR has rightly been directed to be registered in this matter against the petitioner.

6. Respondent No.3 has also filed document / communication / letter dated 22.05.2023 (Annexure P/7 at page 73) sent by the Principal, Swami Vivekanand Shiksha Mahavidyalay, Sendhwa to Smt. Nirmla Verma for cancellation of her B. Ed. admission taken in the year 2012-13.

7. Respondent No.5 – RTI Activists, despite service of notice, has not filed any reply.

8. I have heard learned counsel for the parties and perused the record.

9. After hearing learned counsel for the parties, this Court is shocked and surprised the manner in which this matter has been taken up by the respondent No.3 on a baseless complaint submitted by respondent No.5. Respondent No.5 has not mentioned any provision of law under which he made a complaint (Annexure P/2) to the respondent No.3 for taking penal action against this petitioner. Even the SDM, without examining his authority under the law, has constituted committee to enquire in this matter. The Committee acted as police and recorded the statements of the witness, summoned the record. The statement of the petitioner and his wife were also recorded, which is nothing but harassment of senior citizen.

10. The petitioner was never a subordinate employee / officer of respondent No.3. The respondent No.3 is not the Competent Authority for examining the matter relating to admission in B.Ed. Course or to examine the conduct of the

petitioner. Therefore, the respondent No.3 in what capacity has entertained the complaint of respondent No.5 and appointed a Three Member Committee for submitting a report has not been explained in the reply filed before this Court. This is nothing but a sheer abuse of power and authority of the respondent No.3. Three Member Committee completed the so-called inquiry / investigation and submitted to respondent No.3.

11 . Thereafter, respondent No.3 sent detailed a letter to the Collector, Barwani on 09.10.2020 within a week from the date of submission of the report in order to obtain further cause of action to be adopted in this matter.

12. Meanwhile, respondent No.5 submitted a complaint to CM Helpline also. CM Helpline is not made for entertaining such type of frivolous and bogus complaint (s) in order to take some revenge against government officer (s).

13. It appears that after adopting above procedure, respondent No.3 did not stop and the Principal, Government College, Sendhwa, District Barwani (M.P.) to ensure registration of an FIR against the petitioner. It is important to note that the petitioner had retired from the service long back.

14. The so called Domicile Certificate issued by the petitioner on 18.03.2013 (Annexure P/1) in the capacity of In-charge Principal, Government Post Graduate College, Sendhwa is reproduced below: -

“निवास प्रमाणक

श्रीमति निमर्ला वमार् पति डॉ. अशोक वमार् सेधवा परार्थीर् के पति डॉ. अशोक वमार् परार्ध्यापक शास. स्नात. महाविद्यालय सेधवा जिला बड़वानी म.प. के मूल निवासी होकर विगत 23/09/1980 से वर्तमान तक कायर्त् है। इनकी पतिर् के निवास प्रमाण पतर् हेतु उक्त प्रमाणक अभिलेख नियोक्ता के आधार पर प्रदान किया जाता है।”

This cannot be said to be a Domicile Certificate. This was issued to

certify that Smt. Nirmala Verma is wife of the petitioner and is residing with him; and the petitioner is a Domicile of State of Madhya Pradesh since 23.09.1980. This could have been better drafted but intention was not to usurp the authority of SDO.

15 . Smt. Nirmala Verma mark sheets are filed along with return filed by respondent No.3 which shows that she did her Higher Secondary and Graduation from Madhya Pradesh. She was married to the petitioner. Therefore, she is otherwise a Domicile of Madhya Pradesh, hence no such a false declaration was given by the present petitioner for his wife that she is a resident of Madhya Pradesh.

16. Even otherwise, it is not the case of the respondents that for admission in B.Ed. Course, a candidate should be a Domicile of Madhya Pradesh. The Committee recorded statement of Smt. Nirmala Verma also in which she disclosed that she is a resident of Madhya Pradesh since last thirty years. Seat Allotment Letter submitted by Smt. Nirmala Verma is annexed as Annexure R/4 (at page 41) in which in the column of Domicile Certificate, a Note is appended that in case of Central Government Employees posted in Madhya Pradesh, a Certificate issued by the Head of the Department in respect of son, daughter and wife shall be in Form 8 (A) or 8 (B). Therefore, there was no requirement that a Domicile Certificate should be issued by SDO would be acceptable, in case of Central Government Employee posted in Madhya Pradesh, the Head of the Department can issue a Domicile Certificate.

17. As held above, for B.Ed. Admission, there was no requirement that only a Madhya Pradesh Domicile is eligible to take admission. Therefore, this certificate has not been prepared by the petitioner to take undue advantage of the certificate. The wife of the petitioner is housewife, she did not secure

appointment in any Government Department on the basis of B.Ed. qualification.

18. If this so called Certificate was not valid, it could have been rejected by the Competent Authority, at that relevant point of time during the Counselling. Now, after seven years, on the basis of a complaint of the RTI Activist i.e. respondent No.5, this senior citizen petitioner and his wife, both, were unnecessarily harassed by the respondent No.3. It appears that at the instance of respondents No.3 and 5, now Swami Vivikanant Shiksha Mahavidyalay, Sendhwa is going to cancel admission of Smt. Nirmla Verma in B.Ed. Course, which took place in the year 2012-13. This is nothing but a height of misuse of powers and authority by respondent No.3. This matter be reported to the Principal Secretary of concerned Department to examine the conduct of respondent No.3 and if necessary, disciplinary action be also initiated against him.

19. That before granting stay in this matter, the Police conducted an investigation / inquiry and Sub Divisional Officer (Police), Sendhwa, District Barwani (M.P.) submitted a report dated 20.11.2020 to the Superintendent of Police, Barwani that no forgery or offence has been committed in this matter. The aforesaid report is filed as Annexure P/9. Even this Enquiry was conducted on the complaint given by respondent No.5 – RTI Activist. It is apparent that respondent No.5 has some personal grudge against the petitioner, otherwise no RTI activist can go to such an extent to obtain the documents of B.Ed. admission of any candidate. In the name of RTI Activist, the respondent No.5 has targeted the petitioner to harass him and in which respondent No.3 has extended full support.

20. Therefore, impugned order dated 20/21.02.2023 (Annexure P/8) passed by respondent No.3 is hereby quashed; and this petition is allowed with a cost of Rs.2,00,000/- (rupees two lakhs) payable to the petitioner for the harassment meted out to him by respondent No.3 (in person, posted at relevant time) and respondent No.5 jointly and severally. Let cost amount be recovered from the respondents No.3 and 5 and paid to the petitioner. The respondent No.2 - Collector, Barwani, District Barwani (M.P.) is directed to comply with the above directions; and submit a compliance report to this Court.

rcp



(VIVEK RUSIA)
JUDGE