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WP-13338-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

ON THE 22nd OF JANUARY, 2026WRIT PETITION No. 13338 of 2023*ROSHNI PATEL**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Devendra Kumar Dixit - Senior Advocate with Shri Anshul
Dixit - Advocate for the petitioner.*

*Shri Kailash Chandra Ghildiyal - Senior Advocate with Shri Kapil
Sharma - Advocate for respondent No.6.*

*Shri Pramod Kumar Chaurasia - Government Advocate for the
State.*
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ORDER

Petitioner has filed this petition under Article 226 of the Constitution of India challenging impugned order dated 16.05.2023 passed by respondent No.2 contained in Annexure-P/7 by which appeal preferred by petitioner was dismissed and order of Collector dated 04.11.2022 was affirmed. By order of Upper Collector, District-Sagar appointment on the post of Anganwadi Assistant was given to one Anamika Rajput who is respondent No.6 in this case.

2. Learned Senior Counsel appearing for petitioner has challenged



the impugned order on three counts:-

(i) appeal before Collector was preferred by respondent No.5 namely Tulsa Patel. No objection or appeal was preferred by Anamika Rajput/respondent No.6. Collector had committed an error in examining the appeal and granting relief to respondent No.6 in said appeal. It is further submitted that appeal was preferred by Tulsa Patel/respondent No.5 against order of appointment of petitioner-Roshni Patel. Tulsa Patel did not challenge the position or marks granted to Anamika. Collector had committed an error in examining the case of Anamika and granting her relief in appeal when no such relief was sought by her. It is also submitted that in counter claim relief to co-defendant cannot be granted. Reliance is placed on judgment passed by Apex Court in case reported in *AIR 2025 SC 4284 {Rajul Manoj Shah Vs. Kiran Bhai Shankar Bhai Patel}*.

(ii) Senior Counsel appearing for petitioner raised second ground before this Court that power to decide appeal is vested in Collector and said power cannot be exercised by Additional Collector. Power vested on a person is to be exercised by him only and same cannot be delegated further to be exercised by another authority.

(iii) Senior Counsel appearing for petitioner raised third ground before this Court that guidelines i.e. A-2(B)(5) for appointment of Anganwadi Worker was not followed and less mark was awarded to petitioner. Had guideline A-2(B)(5) been followed then petitioner would



be at No.1 position. As per aforesaid clause, if a candidate gets upto 40% of mark he is to be given 20 mark and if a candidate had got more than 40% marks in Class-8 then on 2% he is to be granted 1 mark. Petitioner ought to have been given 80 marks as per said scheme.

3. Learned Senior Counsel appearing for respondent No.6 submitted that technicality of civil law is not to be applied in appeal before Collector in a case of Anganwadi Worker. Appeal was preferred by Tulsa/respondent No.5 but Collector is always free to examine the records and give its finding on basis of facts before him. If Collector has come to a conclusion on basis of facts that respondent No.6 is more meritorious then Collector is free to pass an order in favour of respondent No.6 though, said respondent has not sought relief by filing an appeal. Principle that no relief can be given to a defendant against co-defendant does not apply in the present case. Senior Counsel appearing for respondent No.6 further submitted that as per definition mentioned in MP Land Revenue Code, 1959. term "Additional Collector" means Collector and Additional Collector enjoys same power and authority as that of Collector, therefore, there is no sub-delegation of power and it cannot be said that appeal cannot be heard by Additional Collector. On issue No.3, Senior Counsel for respondent No.6 submitted that marks has been given as per the grading. In cases of grading how marks is to be allotted has been mentioned in the policy and said policy was followed. No illegality can be said to have been done in allotment of marks. In



view of aforesaid, he prayed for dismissal of writ petition.

4. Heard the counsel for the parties and appreciated the argument of both the parties.

5. Provision of first appeal and second appeal is provided in circular of State Government. No specific procedure is prescribed for deciding the said appeal. In view of same, appellate Court has to follow the basic necessities of law i.e. natural justice, equity and good conscience. Collector has provided opportunity of hearing to each of the parties and has perused the records available before him and on basis of said records after hearing the parties, Collector has to take decision which is the best candidate to be selected for the post of Anganwadi Worker. Strict technical rule of Code of Civil Procedure is not to be followed. Rights of natural justice has been followed and order has been passed fairly, therefore, hyper-technical approach of procedure may not be permitted to defeat the truth. *First ground* raised by petitioner is *rejected*.

6. Additional Collector and Collector holds the same power and word "Collector" also includes Additional Collector as per meaning given in MP Land Revenue Code, 1959. If Collector allots work to Additional Collector then he is not delegating his power but is only doing work allotment. Therefore, Additional Collector can also hear appeal of Anganwadi Worker under the circular of State Government. It cannot be said that order is violated if Additional Collector had heard



appeal and passed order on its merits. *Second ground* raised by petitioner is also *rejected*.

7. Third ground raised by petitioner is in respect of allotment of marks to respective candidates in this case. On perusal of circular issued by Government of Madhya Pradesh, Department of Women and Child Development dated 27.11.2020, it is found that marks are assigned to a candidate in accordance with result of Class-5th. Department found that candidate may pass Class-5th examination from different Boards and system of marking of different Boards may be different. In some Boards, marksheet is prepared on basis of actual marks received by a student basis of grading of a student is actual marks and percentage received by him in examination whereas in some Boards student is given grading A, B, C, D on basis of marks obtained. For granting marks to different students who are coming from different Boards, circular of MP Government Women and Child Development Department lays down that in case of grading from different Boards, marks to be allotted to a student has to be as under:-

क्रं.	एमपी बोर्ड की ग्रेडिंग	सीबीएसई की ग्रेडिंग	आईसीएसई की ग्रेडिंग	परिणाम श्रेणी	अंक विभाजन	
					आ.वा. कार्यकर्ता	आ.वा. सहायिका / मिनी कार्यकर्ता
01	A	A1	A2	उत्कृष्ट	55	60
02	B	B1	B2	उत्तम	45	50
03	C	C1	C2	अच्छा	35	40
04	D	D1	D2	सामान्य	25	30
05	E	E1	E2	सुधार योग्य	-	-

8. In aforesaid circular, it is also provided that marksheets which



are prepared on basis of marks in that cases student is to be given marks as under:-

"IV. जिन अंक सूचियों में परिणाम अंक पद्धति के अनुसार घोषित हैं उनकी गणना आंगनवाड़ी सहायिका के परिपेक्ष्य में निम्नानुसार है:-

1. पांचवी कक्षा में 40 प्रतिशत तक 30 अंक एवं 40 प्रतिशत से अधिक अंक पर प्रत्येक 2 प्रतिशत पर 1 अंक

2. आठवी कक्षा या उससे अधिक शैक्षणिक योग्यता होने पर 10 अंक"

9. However, circular does not lay down that if marksheet is prepared on basis of actual marks obtained by a student and, thereafter, said marks are converted to Grade-A, B, C and D then such candidate is to be assessed on basis of Clause-1(I) or Clause-1(IV). In such situation what shall be the procedure for allotment of marks to a student, it is found that student who gets 75% or more mark is granted Grade-A+, student who gets 60-75% of marks is granted Grade-A, student who gets 45-60% of marks is granted Grade-B, student who gets 33-45% of marks is granted Grade-C and student who gets less than 33% of marks is granted Grade-D.

10. Considering aforesaid grading, it is found that comparison of marks between two candidates will be difficult and very generalized. One candidate who has got 60% of marks and another candidate who has got 75% mark both are granted Grade-A and as per circular they are



to be given 60 marks which means candidate-A securing 60% marks and candidate-B securing 75% marks though there is difference of 15% mark between result of candidate-A and candidate-B but both will be granted Grade-A and both will get 60 marks which will be discriminatory to a student who has got more mark i.e. candidate-B. In such conditions, such Clause-1(IV) is more accurate for making gap between more meritorious and less meritorious will not be bridged as is done in grading system.

11. In these circumstances, if in a marksheet a student has been given marks as well as grading then in the interest of justice and for equity and fair play calculation of marks to be allotted to him shall be made in accordance with Clause-1(IV) i.e. using the method of granting marks on basis of actual marks obtained by him. Marksheet of petitioner as well as respondent No.6 are not filed before this Court, therefore, order passed by Collector and Commissioner are set aside.

12. Matter is remanded back before Collector to allot them marks as per Clause-1(IV) of circular dated 27.11.2020 and whoever gets the highest marks may be given appointment on the post.

13. With aforesaid, petition is *disposed of*.

(VISHAL DHAGAT)
JUDGE

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