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

BEFORE

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 15th OF MAY, 2025**

WRIT PETITION No. 5737 of 2025

SHANKAR SINGH DAWAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Ms. Archana Kher - Advocate for the petitioner.

Shri Abhinav Dhanodkar – Advocate for respondent Nos.2 and 3.

ORDER

1] Heard.

2] This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“7.1 A writ in the nature of mandamus certiorari or other writ direction or order may kindly be passed and respondents be directed to revoked suspension of the petitioner and petitioner be reinstated in service.

7.2 Any other relief this Hon’ble Court deems fit may be granted in favour of the petitioner.

7.3 Costs be awarded to the petitioner.”

3] Petitioner is aggrieved of the order of suspension dated 28.01.2025 passed by the respondent No.2 – Managing Director cum Additional Commissioner, Madhya Pradesh Rajya Krishi Vipanan (Mandi) Board, Bhopal, whereby the petitioner, who was posted as Assistant Sub-Inspector at Krishi Upaj Mandi Samiti, Pandhana, District Khandwa has been suspended on account of a charge-sheet having been



filed against him on 16.12.2024 under Sections 418, 420 and 120-B of IPC and Sections 13(1)(d), 13(2) of Prevention of Corruption Act, 1988.

4] This petition has been filed on the ground that the Managing Director has no jurisdiction to pass the order of suspension, as the aforesaid power vests with the appointing authority of the petitioner, who is the Additional Director.

5] Ms. Archana Kher, learned counsel for the petitioner has submitted that the respondent No.2 happens to be the Appellate Authority of the petitioner, and not the authority, who could pass the order of suspension, and had it been a case of the order of suspension having been passed by the Additional Director, its appeal would have lied before the respondent No.2 – Managing Director.

6] In support of her submission, counsel for the petitioner has also relied upon certain decisions rendered by the Supreme Court as well as this Court in the cases of *Anilkumar K. and another Vs. Kerala State Co-Operative Consumers Federation Ltd. & Ors.* reported as 2015 SCC OnLine Ker 24418; *Ishwar Singh Vs. State of Rajasthan and Ors.* reported as AIR 2005 SC 773; *Jasbir Singh Vs. State of Punjab* reported as 2006 (7) Supreme 646; *Marathwada University Vs. Seshrao Balwant Rao Chavan* reported as (1989) 3 SCC 132; *Hastimal Bheroolal Vs. State of Madhya Pradesh* reported as 1972 0 MPLJ 660; *Suresh Kumar Purohit Vs. State of M.P. and another* reported as [2005(4) MPLJ 524]; *Badri Prasad Yadav Vs. State of M.P. and others* reported as 2010 (III) MPWN 74; and *M/s. Dwarka and others Vs. The State of Madhya Pradesh and others* passed in Writ Petition No.23511 of 2021 dated 24.02.2025.



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7] Since the interim order was passed by this Court on 04.03.2025, the respondent No.2, instead of filing a reply, has filed an application for dismissal of the petition on the ground that the order has been passed by the competent authority, and also that a remedy of appeal is also available to the petitioner under Section 59 (1) of the Krishi Upaj Mandi Adhiniyam, 1972 (hereinafter referred to as 'the Act of 1972'). It is stated that under Section 59 of the Act of 1972, the Managing Director can exercise his powers for suspension also.

8] In rebuttal, a detailed reply has also been filed by the petitioner of the said application, reiterating his stands that the respondent No.3 is the Appointing Authority, whereas the respondent No.2 is the Appellate Authority.

9] Whereas, a rejoinder to the said reply has also been filed by the respondent Nos.2 and 3, wherein it is stated that even otherwise the Additional Director has been transferred, and in such circumstances, also no illegality has been committed by the Managing Director to exercise his powers. Counsel for the respondent Nos.2 and 3 Shri Abhinav Dhanodkar has also submitted that powers have been exercised by the Managing Director under Section 42-D(4) of the Act of 1972, which provides that the powers of superintendence and control over all the officers and employees of the Board shall vest in the Managing Director. Counsel for the respondent Nos.2 and 3 has also relied upon a decision rendered by the Division Bench of this Court at Gwalior in the case of ***Virendra Kumar Singh Vs. State of M.P. & Ors.*** passed in ***W.A. No.01 of 2015 dated 27.02.2015.***

10] Heard counsel for the parties, and perused the record.



11] From the record, it is apparent that the order of suspension has been passed by the respondent No.2 Managing Director by invoking Rule 35 of the *Madhya Pradesh Rajya Mandi Board Seva Viniyam, 1998* (hereinafter referred to as ‘the Viniyam of 1998’). The relevant excerpt of the same, reads as under:-

“Rule 35:- लंबित अनुशासनिक कार्यवाहियों के दौरान निलंबन:

XXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXXX

(3) सेवा के किसी सदस्य को जिसके विरुद्ध अपराधिक आरोप लंबित हो, यदि आरोप बोर्ड के सेवक के रूप में उसके कर्तव्यों के संबंध में हो या ऐसे हो जिनसे बोर्ड या मण्डी समिति में उसके कर्तव्यों के निर्वहन में बाधा उपस्थित होने की संभावना हो, या उनमें नैतिक पतन अंतर्विहित हो, प्रबंध संचालक के विवेकानुसार कार्यवाहियों के पूर्व जांच समाप्त होने तक निलंबित किया जा सकेगा।

12] The aforesaid Rule has been amended in the year 2002, and after its amendment, it reads as under:-

“35(3) सेवा के किसी सदस्य को जिसके विरुद्ध अपराधिक आरोप लंबित हो, यदि आरोप बोर्ड के सेवक के रूप में उसके कर्तव्यों के संबंध में हो या ऐसे हो जिनसे बोर्ड या मण्डी समिति में उसके कर्तव्यों के निर्वहन में बाधा उपस्थित होने की संभावना हो, या उनमें नैतिक पतन अंतर्विहित हो, नियुक्ति प्राधिकारी/अनुशासनिक प्राधिकारी के विवेकानुसार कार्यवाहियों के पूर्व जांच समाप्त होने तक निलंबित किया जा सकेगा।.”

(Emphasis supplied)

13] It is apparent from the aforesaid Rule that it has been amended in the year 2002, and the word “Managing Director” has been substituted with “Appointing Officer/Disciplinary Authority”. However, it is also found that as per the rejoinder, to the reply filed by the petitioner to the application for dismissal of the petition, the respondent Nos.2 and 3 have



also placed on record the order of transfer of the respondent No.3 Additional Director Shri Arun Kumar Vishwakarma, who has been transferred as a Collector, District Raisen, and in his place, the powers has been exercised by the Managing Director under Section 42-D of the Act of 1972. Section 42-D reads as under:-

“[42-D. Appointment of Managing Director and other officers and employees at the Board.-(1) The Board shall have a Managing Director who shall be appointed by the State Government.

(2) The Managing Director appointed under sub-section (1) shall also function as the ex-officio Secretary of the Board.

(3) The Board may appoint other officers and employees as may be necessary for the efficient discharge of its duties and functions under the Act.

(4) The superintendence and control over all the officers and employees of the Board shall vest in the Managing Director.”

(Emphasis supplied)

14] It is apparent that as per Sub-section(4) of Section 42-D of the Act of 1972, the powers of superintendence and control have been vested in the Managing Director, over all the officers and employees of the Board. In such circumstances, this Court is also of the considered opinion that when a particular officer is not available to discharge his duties, such duties can certainly be looked after by the Managing Director himself in his discretion, because absence of an officer cannot hamper the working of the entire Mandi Board. Thus, on account of transfer of the Additional Director and vacancy of his post, if the order of suspension has been passed by the Managing Director while exercising its powers of superintendence u/s.42-D(4) of the Act of 1972, it cannot be said that any illegality has been committed while passing the same. Reference in this regard, may also had to the decision rendered by the Division Bench of this Court at Gwalior in the case of *Virendra Kumar Singh (Supra)* wherein the Division Bench has also noted the power of superintendence



of the Managing Director under Section 42-D(4) of the Act of 1972.

Relevant paras of the same read as under:-

“5.1 xxxxxxxxxxxxxxxx

5.2 The second ground raised was that the transfer order was issued by an incompetent authority. This ground was rightly negated by the writ Court as it was found from rule position that the Managing Director of the respondents Board who had issued impugned transfer order was competent to do so on the strength of M.P. Rajya Mandi Board Sewa Viniyam, 1998 r/w section 42-D (4) of M.P. Krishi Upaj Mandi Adhiniyam, 1972. This findings of the Managing Director to issue impugned order also cannot be found fault with as the statutory provision (supra) vest the Managing Director with power to transfer employee or officer of the Board at any District within the State of M.P.

6.xxxxxxxxxxxxxxxxxx

6.1xxxxxxxxxxxxx

6.2 xxxxxxxx

6.3 xxxxx

6.4 In this respect, it is seen from the record that the note sheet ostensibly discloses that the decision was taken at the level of Chairman of the Board, but the fact remains that ultimately the order of transfer was passed by the Managing Director of the respondent-Board who is vested with over all control and supervision of employees and officers of the Board with further authority of transferring any member of the respondent-Board at any place within the State of M.P. While exercising this power of transfer the Managing Director of the respondent-Board acted as an administrative authority and, therefore, was not exigible to the trappings which are otherwise applicable to a quasi judicial authority.”

15] So far as the decisions relied upon by the counsel for the petitioner is concerned, the same are no avail to the petitioner as the same are distinguishable on facts.

16] Accordingly, the petition being devoid of merits, is hereby *dismissed*.



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17] However, the petitioner shall be at liberty to assail the order of suspension passed by the Managing Director before the State Government as provided under Section 59 of the Act of 1972.

18] Petition stands *disposed of*.

(SUBODH ABHYANKAR)
JUDGE

Pankaj