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WP-2769-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 7th OF JULY, 2026WRIT PETITION No. 2769 of 2024*AMIT KUMAR SINGH RAGHUVANSHI**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Rishikesh Bohare - Advocate for the petitioner.

Shri Rohit Shrivastava - Panel Lawyer for the State.

Shri Vikram Singh - Advocate for respondent No.3.

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ORDER

The present petition, under Article 226/227 of the Constitution of India, has been filed by the petitioner seeking following reliefs:-

*"(1) That, impugned order dated 21-09-2023
(contained in Ann.P/1) passed under the authority of the
respondent no.1 may kindly be quashed/set-aside.*

*(2) That, any other suitable writ, order or direction for
doing justice in the matter may kindly be issued."*

Short facts of the case are that the petitioner is an advocate enrolled with the State Bar Council of Madhya Pradesh and has been practicing before the District Court, Guna. He was initially appointed as Additional Government Advocate/Additional Public Prosecutor by order dated



04.10.2014. Subsequently, his services were terminated by order dated 25.05.2016 on the basis of an adverse inquiry report. The petitioner challenged the termination in Writ Petition No.4060/2016, wherein this Court, by order dated 13.01.2017, removed the adverse remarks recorded against him. Respondent No.3 had also been subjected to disciplinary action and was removed from the post of Additional Government Advocate/Additional Public Prosecutor by order dated 25.05.2016 after her conduct was found unsatisfactory. The petitioner asserted that this fact was specifically mentioned in the Collector's panel/recommendation dated 15.01.2021. The petitioner was again appointed as Additional Public Prosecutor by order dated 09.05.2018. Thereafter, respondent No.3 was appointed by order dated 30.07.2021, resulting in the petitioner's displacement from the post. The petitioner challenged that appointment by filing Writ Petition No.17275/2021, which remained pending. Subsequently, by the impugned order dated 21.09.2023, respondent No.3 was granted a fresh appointment for another term of three years under Rule 17(3) of the Madhya Pradesh Law Department Manual. Aggrieved thereby, the petitioner submitted a representation dated 04.10.2023 requesting cancellation of the appointment. As no action was taken, the present writ petition has been filed seeking quashment of the appointment order.

Learned counsel for the petitioner submitted that the impugned order dated 21.09.2023 is wholly illegal, arbitrary and contrary to the provisions of the Madhya Pradesh Law Department Manual, as Rule 17(3) of the Manual does not authorize the State Government to grant a fresh appointment for a



further period of three years in the manner adopted in the present case. Extension or reappointment can only be made in accordance with Rule 19 of the Manual, which mandates consultation with the District and Sessions Judge and consideration of the work and conduct of the incumbent after obtaining the necessary reports.

It was further submitted that respondent No.3 had earlier been removed from the same post by order dated 25.05.2016 after her conduct was found unsatisfactory. This adverse remark was specifically reflected in the Collector's recommendation dated 15.01.2021, but the same was ignored while granting appointment in 2021 and again while issuing the impugned order dated 21.09.2023.

Learned counsel also submitted that the respondents have incorrectly stated that no adverse remarks existed after 2016, whereas the recommendation dated 15.01.2021 itself contains the adverse remarks in Column No.6. Therefore, the subsequent appointment of respondent No.3 in 2021 and the present extension based upon such appointment are illegal.

It was further submitted that the respondents failed to follow the mandatory procedure prescribed under the Law Department Manual and the departmental note-sheet itself demonstrates that the appointment of respondent No.3 was made merely to fulfil the wishes of the then Law Minister, rendering the decision arbitrary, mala fide and violative of Article 14 of the Constitution. Accordingly, it was prayed that the impugned order dated 21.09.2023 be quashed.

Per contra, learned Panel Lawyer for the State as well as the counsel



for the respondent No.3 submitted that the impugned appointment was made after following the prescribed procedure and after considering the recommendations of the Collector and the District & Sessions Judge. It was contended that the adverse remarks recorded in 2016 were not of a continuing nature and respondent No.3 had satisfactorily discharged her duties during her previous tenure. It was further submitted that appointment of an Additional Public Prosecutor/Additional Government Advocate is within the prerogative of the State Government and no legal right of the petitioner has been infringed. Therefore, the writ petition deserves to be dismissed.

Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that the principal challenge of the petitioner is to the appointment of respondent No.3 as Additional Public Prosecutor/Additional Government Advocate vide order dated 21.09.2023.

The record reveals that before issuance of the impugned order, the competent authority considered the recommendations of the District Collector as well as the District & Sessions Judge. The State has specifically asserted that the appointment was made after following the prescribed procedure and after considering the work and conduct of respondent No.3.

The petitioner's principal contention rests upon the adverse remarks recorded against respondent No.3 in the year 2016. However, it appears that the said remarks were not treated by the competent authority as a continuing disqualification. On the contrary, respondent No.3 was subsequently appointed in the year 2021, discharged her duties during the tenure, and was



thereafter recommended by the competent authorities for further appointment. Merely because adverse remarks were once recorded would not, by itself, permanently debar a person from future appointment, particularly when the competent authority has thereafter assessed the incumbent's performance and found her suitable.

It is well settled that engagement of a Public Prosecutor/Additional Public Prosecutor is essentially a professional engagement and the choice of counsel primarily lies within the domain of the State Government. Unless the appointment is shown to be vitiated by statutory violation, mala fides or manifest arbitrariness, this Court would not substitute its opinion for that of the competent authority while exercising jurisdiction under Article 226 of the Constitution.

The allegations that the appointment was made merely to satisfy the wishes of the then Law Minister are bald and unsupported by any cogent material. Such allegations cannot be accepted in the absence of convincing evidence.

Accordingly, this Court finds no ground warranting interference with the impugned order dated 21.09.2023. However, before parting with the matter, this Court also takes note of the fact that the tenure of respondent No.3 under the impugned order dated 21.09.2023 is to expire in September, 2026. It is expected that, while making any fresh appointment or reappointment thereafter, the State Government shall duly take into consideration the provisions of the Madhya Pradesh Law Department Manual and ensure that the procedure prescribed therein is followed in its



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true letter and spirit, so as to maintain transparency, fairness and objectivity
in the process of appointment

(MILIND RAMESH PHADKE)
JUDGE

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