

To,

The Registrar (Administration)/
Secretary of the Permanent Committee for Designation
For Senior Advocates,
High Court of Madhya Pradesh,
JABALPUR.

Subject : Application for designation as the Senior Advocate.

Ref. : Notice No. A/2706/I-1-27/63 (Rules 2018) Jabalpur dated 02/04/2024.

Sir,

I do hereby submit an application for my designation as the 'Senior Advocate' by the Hon'ble High Court of Madhya Pradesh, in the prescribed profarma as per the requirement of *High Court of Madhya Pradesh (Designation of Senior Advocate) Rules, 2018*.

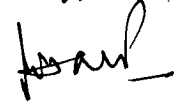
Necessary enclosures are attached with the application, as required at this stage.

Kindly acknowledge.

JABALPUR

DATED: 16/04/2024

Sincerely,



[SAMDARSHI TIWARI]
Advocate

Enclosures:

1. Application in profarma with covering memo.
2. Copies if Income Tax returns of last three years with copy of PAN Card.
3. List of important and recent judgments.
4. Copy of my article '*Childhood, A Fundamental Right : Law and Irony*'
5. Copy of the Certificate of participating in *Fifth International Conference on Law and Economics* held at *Indian Institute of Management (IIM) Bangaluru*.
6. Copy of the order dated 22.10.2018 of SBC.
7. Copy of letter dated 05/12/2022 with representation.
8. Copies of five best synopses prepared by me.
9. Copy of letters related to sitting in National Lok Adalat

**HIGH COURT OF MADHYA PRADESH (DESIGNATION OF SENIOR
ADVOCATES) RULES, 2018**

**PROFARMA OF PARTICULARS
(UNDER RULE 13)**



- | | |
|--|---|
| (1) Name | SAMDARSHI TIWARI |
| (2) Qualification | B.A., LL.B.
(LL.B. From University Teaching Department,
RDVV Jabalpur) |
| (3) Date of Birth | 09th August 1969 [09/08/1969] |
| (4) Permanent Address | 12- Denning Road, South Civil Lines,
Jabalpur- (M.P.) PIN 482001 |
| (5) Address to which
Communications are to be sent | 12- Denning Road, South Civil Lines,
Jabalpur- (M.P.) PIN 482001 |
| (6) Name of the Bar Council and the
Date of enrollment as an
advocate | State Bar Council of Madhya Pradesh, Jabalpur
07/09/1996 |
| (7) Number in the roll of advocates | En. No.- MP2309/1996 |
| (8) Whether is a member of any
Association of lawyers? If so
The details | MP High Court Bar Association, Jabalpur
MP High Court Advocate's Bar Association |
| (9) Number of years, name of place
And Court(s) where practiced | 27 Years 06 Months.
High Court of Madhya Pradesh,
Central Administrative Tribunal-Jabalpur,
Civil Court- Jabalpur. |
| (10) Specialization in any field of law,
If so, details | Service & Labour, Constitution, Civil,
Arbitration |
| (11) Whether a junior to any lawyer(s)
At present? If so, the details | NO |

- (12) Whether any junior lawyer is Practicing with him? If so, Names of such lawyers and the period
Shri Pranay Choubey since year 2006
Shri Navendra Choudhary since year 2007
Shri Palash Upadhyay since 2019
Shri Utkarsh Pachouri since 2021
- (13) Whether is an assessee under Income Tax Act in respect of Professional income? If so, Details of income assessed for the last three years accompanied by a copy of the Permanent Account Number Card.
Yes. Copies of the Income Tax Returns For the last three financial years with PAN Card are enclosed herewith.
- (14) Whether was/is in the panel of the State or the Central Government Or whether holds any office under The State of the central Government?
Presently No.
*Held the office of the Additional Advocate General (July 2017 to December 2018)
*Held office of Deputy Advocate General (November 2014 till June 2017)
*As Government Advocate prior to above.
- (15) (a) Reference to any important matter in which appeared and Rendered assistance
List enclosed.
- (b) Reported judgments in which the concerned Advocate(s) had appeared in last five years And rendered assistance.
List enclosed.
- (16) Whether has written any book on law or made any contribution to a law publication or journal? If so, details
Wrote an article on the topic- '*Childhood, A Fundamental Right : Law and Irony*'
Published in *AIR Vol.6 2019 Page 58*
[Also in 2018(2) MPLJ 25]
Copy enclosed.
- (16a) Whether has/had any teaching assignment or delivers/ delivered guest courses At Law Schools? If so, details
NO

- (17) Whether has attended or Participated in any seminar/ Workshop? * Presented in the *Fifth International Conference on Law and Economics* held at *Indian Institute of Management (IIM) Bangaluru* [28TH & 29TH December 2019]
- * National Workshop- *Nyay Kendra Jabalpur* 30-31 March 2018 Convened by *Adhivakta Parishad*.
- (18) Whether is/was connected With any faculty of law? NO
- (19) Whether any application for Designation as senior advocate had been made in the past to the High Court of Madhya ? Yes. It was in March 2022, I had applied before *Permanent Committee for Designation of Senior Advocates* and my name did not appear in the list of designated Advocates notified on 11/03/2022. My representation dated 25/04/2022 was 'filed' by the *Permanent Committee* for the want of power to review or reconsider in the rules, which was communicated vide letter dated 05/12/2022 with a resolution that I am entitled to apply afresh in terms of Rule 20 of the *High Court of Madhya Pradesh (Designation of Senior Advocate) Rules, 2018*. Copy of my representation dated 25/04/2022 and the letter *No.D/2519/2022* dated 05/12/2022 are enclosed herewith.
- (20) Whether ordinarily practicing within the jurisdiction of the High Court of Madhya Pradesh? YES
- (21) Whether has ever been personally involved in any civil or criminal litigation or contempt proceedings or any disciplinary proceedings against him by the Bar Council. If so, the details whereof.
- Copy of the final order rejecting compliant dated 22.10.2018 of SBC is enclosed.
 - Never involved in any civil or criminal litigation.
 - The contempt notices issued for alleged abstention from work due to strike called by the State Bar Council have been dropped.

- (22) Details of participation in *pro bono* work
- **WP No. 23687 of 2021 [PIL] – Sanjay Sharma Vs. State:**
Inaction on part of the State Government in not providing in proper infrastructure and facilities in order to ensure efficient implementation of the Notification issued by the Central Government *inter alia* thoroughly amending the *Central Motor Vehicle Rules, 1989*, whereby introducing on-line issuance of *Learner's Driving License*.
 - **WP No. 13670/2023[PIL] –Balchand Shinde Vs. State:**
In the garb of investment of Mandi Committee Fund for alleged public purpose by the politicians through *Ishwam Sahkari Shakkar and Krishi Udyog Maryadit* (a Society) of District Khandwa, the huge amount of public money in crores has been siphoned off.
 - **WP No. 16374/2021 [PIL] –Dr. Satyaprakash Sharma Vs. State:**
Issue of inordinate delay in appointment of the Chairman in the M.P. *Commercial Tax Appellate Board* constituted under Section 4 of the *M.P. Value Added Tax (VAT) Act, 2006*, the office which is lying vacant since 02/02/2021.
 - Have assisted Hon'ble Court in various PILs appearing for the State.
 - Appointed as *Amicus* in W.P. 25097/2019 TN Reference Vs. Union of India & ors.
Decided on 27/07/2020

(22a) Details of five best synopses filed by the advocate concerned. Copies enclosed-

1. In W. A. No. 613/2016
2. In W. A. No. 1854/2018
3. In W.P. 3472/2015
4. In W.P. 10239/2013
5. In W.P. No.2161/2018

(23) Other information/particulars, if any, including legal services and as Legal aid counsel

- Participated in *National Lok-Adalat* at High Court on several occasions as a member of Benches, as held by The Legal Service Committee, High Court of MP.

- Standing Counsel for :-

1. Bharat Sanchar Nigam Limited
2. Barkatullah University
3. Maharaja Chhatrasal Bundelkhand University, Chhatarpur
4. MP State Agriculture Marketing Board, Bhopal
5. Environmental Planning and Coordination Organization, Bhopal

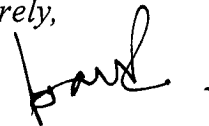
(24) Detail of services rendered by way of legal services, mediation work, other para-legal activities, assistance rendered to various Administrative Committees of the High Court, etc.

- * Participated in the State level Inter-departmental Committee on behalf of the Advocate General while formulating State Litigation Policy.

- * Assisted Internal Committees of Hon'ble High Court as Additional Advocate General for developing Case Management Software on the issue of integrating the office of Advocate General/Government departments. Also, assisted in several meetings on the infrastructure development for development of High Court campus on behalf of Advocate General.

JABALPUR
DATED: 16/04/2024

Sincerely,



[SAMDARSHI TIWARI]
Advocate

Mobile no. – 9406737670

Email ID–
samdarshitiwari@gmail.com

Acknowledgement Number:112433650310723

Date of filing : 31-Jul-2023

INDIAN INCOME TAX RETURN ACKNOWLEDGEMENT

[Where the data of the Return of Income in Form ITR-1(SAHAJ), ITR-2, ITR-3, ITR-4(SUGAM), ITR-5, ITR-6, ITR-7 filed and verified]
(Please see Rule 12 of the Income-tax Rules, 1962)

Assessment
Year
2023-24

PAN	ACEPT2335D		
Name	SAMDARSHI TIWARI		
Address	12, Denning Road, Infront of Prestige Town, South Civil Lines , JABALPUR , 18:Madhya Pradesh, 91-INDIA, 482001		
Status	Individual	Form Number	ITR-3
Filed u/s	139(1)- On or Before due date	e-Filing Acknowledgement Number	112433650310723

Taxable Income and Tax Details			
	Current Year business loss, if any	1	0
	Total Income	2	14,08,750
	Book Profit under MAT, where applicable	3	0
	Adjusted Total Income under AMT, where applicable	4	14,08,750
	Net tax payable	5	2,44,530
	Interest and Fee Payable	6	4,765
	Total tax, interest and Fee payable	7	2,49,295
	Taxes Paid	8	2,49,291
	(+) Tax Payable /(-) Refundable (7-8)	9	0
Accreted Income and Tax Detail			
	Accreted Income as per section 115TD	10	0
	Additional Tax payable u/s 115TD	11	0
	Interest payable u/s 115TE	12	0
	Additional Tax and interest payable	13	0
	Tax and interest paid	14	0
	(+) Tax Payable /(-) Refundable (13-14)	15	(+) 0

Income Tax Return submitted electronically on 31-Jul-2023 15:26:01 from IP address 122.173.34.245
and verified by Samdarshi Tiwari having PAN ACEPT2335D on 31-Jul-2023 using
paper ITR-Verification Form /Electronic Verification Code 7UL8J6I7EI generated through Aadhaar OTP
mode

System Generated

Barcode/QR Code



ACEPT2335D03112433650310723b6075b14c85b6e65e9b4b299aee6ae0ce34e08c8

DO NOT SEND THIS ACKNOWLEDGEMENT TO CPC, BENGALURU

Acknowledgement Number:242315420290722

Date of filing:29-07-2022

INDIAN INCOME TAX RETURN ACKNOWLEDGEMENT

[Where the data of the Return of Income in Form ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4(SUGAM), ITR-5, ITR-6, ITR-7
filed and verified]
(Please see Rule 12 of the Income-tax Rules, 1962)

Assessment Year
2022-23

PAN	ACEPT2335D		
Name	SAM DARSHI TIWARI		
Address	12 , Denning Road , Infront of Prestige Town , South Civil Lines , JABALPUR , 18-Madhya Pradesh , 91-India , 482001		
Status	Individual	Form Number	ITR-3
Filed u/s	139(1) Return filed on or before due date	e-Filing Acknowledgement Number	242315420290722

Taxable Income and Tax details	Current Year business loss, if any	1	0
	Total Income		11,57,400
	Book Profit under MAT, where applicable	2	0
	Adjusted Total Income under AMT, where applicable	3	11,57,400
	Net tax payable	4	1,66,109
	Interest and Fee Payable	5	0
	Total tax, interest and Fee payable	6	1,66,109
Accreted Income & Tax Detail	Taxes Paid	7	1,66,105
	(+)Tax Payable /(-)Refundable (6-7)	8	0
	Accreted Income as per section 115TD	9	0
	Additional Tax payable u/s 115TD	10	0
	Interest payable u/s 115TE	11	0
	Additional Tax and interest payable	12	0
	Tax and interest paid	13	0
	(+)Tax Payable /(-)Refundable (12-13)	14	0

Income Tax Return submitted electronically on 29-07-2022 17:19:04 from IP address 171.60.156.46 and verified by Samdarshi Tiwari having PAN ACEPT2335D on 29-07-2022 17:19:02 using XU9TWQBZH generated through Aadhaar OTP mode

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ACEPT2335D032423154202907220C38162CA7BD792C61EB348BCEE57A35036FEBE8

DO NOT SEND THIS ACKNOWLEDGEMENT TO CPC, BENGALURU

Acknowledgement Number: 613969800301221

Date of Filing: 30-Dec-2021

INDIAN INCOME TAX RETURN ACKNOWLEDGEMENT

Assessment Year

[Where the data of the Return of Income in Form ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4(SUGAM), ITR-5, ITR-6, ITR-7 filed and verified]
(Please see Rule 12 of the Income-tax Rules, 1962)

2021-22

PAN	ACEPT2335D		
Name	SAMDARSHI TIWARI		
Address	12, Denning Road, Infront of Prestige Town, South Civil Lines, JABALPUR, 18-Madhya Pradesh, 91-INDIA, 482001		
Status	Individual	Form Number	ITR-3
Filed u/s	139(1)-On or before due date	e-Filing Acknowledgement Number	613969800301221
Taxable Income and Tax details	Current Year business loss, if any	1	0
	Total Income		15,11,830
	Book Profit under MAT, where applicable	2	0
	Adjusted Total Income under AMT, where applicable	3	15,11,830
	Net tax payable	4	2,76,691
	Interest and Fee Payable	5	2,76,691
	Total tax, interest and Fee payable	6	3,00,301
	Taxes Paid	7	3,00,305
(+) Tax Payable / (-) Refundable (6-7)	8	(-) 0	
Dividend Distribution Tax details	Dividend Tax Payable	9	0
	Interest Payable	10	0
	Total Dividend tax and interest payable	11	0
	Taxes Paid	12	0
	(+) Tax Payable / (-) Refundable (11-12)	13	0
Accreted Income & Tax Details	Accreted Income as per section 115TD	14	0
	Additional Tax payable u/s 115TD	15	0
	Interest payable u/s 115TE	16	0
	Additional Tax and interest payable	17	0
	Tax and interest paid	18	0
	(+) Tax Payable / (-) Refundable (17-18)	19	0

Income Tax Return submitted electronically on 30-Dec-2021 15:28:45 from IP address 10.1.219.49 and verified by Samdarshi Tiwari having PAN ACEPT2335D on 30-Dec-2021 using paper ITR-Verification Form/
Electronic Verification Code C4KXH5F9TI generated through Aadhaar OTP mode.

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Barcode/QR code

ACEPT2335D0361396980030122173fb250aad2dd9396086f66de82b665081345c0a

DO NOT SEND THIS ACKNOWLEDGEMENT TO CPC, BENGALURU

आयकर विभाग
INCOME TAX DEPARTMENT



भारत सरकार
GOVT. OF INDIA

SAMDARSHI TIWARI

MAHESH KUMAR TIWARI

09/08/1968

Permanent Account Number

ACEPT23350



Signature

हस्ताक्षर के बिना / पाने पर कृपया ध्यान दें / ध्यान दें

आयकर विभाग, भारत सरकार, नया दिल्ली

पहली मंजूर, टिकट नंबर, कानपुर विभाग

एस. पी. ऑफिस, लोहा मजदूरी, 2000-013

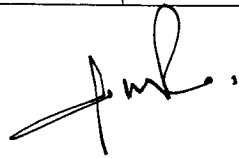
1/1/1968
19/11/1968
Kansar
S. P.
Tel.
e-mail

LIST OF IMPORTANT AND RECENT CASES:-

(15) (a)				
Sl. No	Case Nos.	Parties Names	Date of decision	Reported cases
1	W.P. No. 14549/2015	Farooq Mohammad Vs. State of M.P. & others	15.09.2015 *Full Bench	2015 (4) MPLJ 450
2	W.P. No. 11816/2010	Gita Rani Gupta Vs. State of M.P. & others	31.08.2015 *Full Bench	2015 (4) MPLJ 476
4	W.P. No. 198/1999	Mansukhlal Saraf Vs State of MP & ors.	06.08.2015	2016 (2) MPLJ 283
5	WP No. 13529/2011	Manoj Kumar Purohit Vs. State of M.P. & ors.	23.11.2015 *Full Bench	2016 (1) MPLJ 449
6	W.A. No. 651/2013	Chandrapal Yadav Vs. State of M.P. & others	06.01.2016 *Full Bench	2016 (1) MPLJ 685
8	W.A. No. 581/2017	Nitin Pathak Vs State of MP & ors.	26.09.2017 *Full Bench	2017 (4) MPLJ 353
9	W.P. No. 5865/2016	Ashutosh Pawar Vs State of MP & ors	12.01.2018 *Full Bench	2018 (2) MPLJ 417
10	W.P. No. 7979/2017	ACC Limited Vs State of MP & ors	15.02.2018 DB	2018 (4) MPLJ 529
11	W.P. No. 5865/2016	Ashutosh Pawar Vs State of MP & ors	12.01.2018 *Full Bench	2018 (2) MPLJ 417
(15) (b)				
Sl. No	Case Nos.	Parties Names	Date of decision	Reported cases
1	W.P. No. 7979/2017	ACC Limited Vs State of MP & ors	15.02.2018 DB	2018 (4) MPLJ 529
2	W.P. No. 10406/2017	Sushil Kumar Mishra Vs State of MP & ors. (PIL) with bunch.	01.10.2018 DB	HC Website
3	W.P. No. 6437/2019	Shaheed Hemu Kalani Education Society Vs State of MP & ors.	02.04.2019 SB	HC Website
4	W.P. No. 14973/2018	Sheikh Mohd. Anees Vs State of MP & ors.	08.04.2019 SB	HC Website
5	R.P. No.1270/2019 (Indore Bench)	Rupesh Bisen Vs. State of M.P. & Ors. (Order modified. The matter was later referred to Full Bench in WP 25364/19 – Trinity Infrastructures Vs. State of M.P. & ors. with linked petitions. I appeared for petitioners in 26 petitions. Decided on 21.09.2020.	27.06.2019 DB	HC Website
6	W.A. 1854/2018	State of M.P.& ors. Vs. Praveen Chandra Choubey & ors.	19.11.2019 DB	HC Website

7	W.P. No. 6220/2019	Ms. Sharda Dal Mills Vs. MP State Agriculture Marketing Board & ors.	18/06/2019 SB	HC Website
8	W.P. No. 27892/2019	Ms. Dynamic Services Vs. West Central Railways & ors.	24.04.2020 DB	HC Website
9	W.P. No. 5789/2020	Ms. Anshika Babele & ors. Vs. State of M.P. Ors.	22.09.2020 DB	HC Website
10	M.P. No. 2349/2020	Subhash Chandra Bansal Vs. Brij Kishore Bhargava & ors.	05.10.2020 SB	HC Website
11	W.P. No. 18802/2020	Prabhat Mohanji Pandey Vs. State of M.P. & ors.	17/03/2021 SB	HC Website
12	W.P. No. 10853/2020	Sengar Securities & Labour Pvt. Ltd. Vs. State of M.P. & ors.	02/02/2021 DB	HC Website
13	W.P. No. 10513/2020	Pushpendra Singh Sengar Vs. State of M.P. & ors.	21/12/2020 DB	HC Website
14	W.P. No. 18971/2021	Shri Venkatesh Hospital Vs. State of M.P. & ors.	21/09/2021 SB	HC Website
15	W.P. No. 17814/2021	Laghu Udyog Nirmata cvam Vikrcta Sangh Vs. State of M.P. & ors.	25/01/2022 DB	HC Website
16	W.P. No. 13119/2021	Durgesh Khare Vs. State of M.P. & ors.	04/09/2023 SB	HC Website
17	W.P. No. 8038/2021	Dr. Om Prakash Raychandani Vs. State of M.P. & ors.	11/07/2022 SB	HC Website
18	W.P. No. 17219/2020 (Bunch)	Purushottam Sharma Vs. M.P. State Marketing Board & ors.	13/10/2023 SB	HC Website
19	W.P. No. 26338/2022	B.P. Gupta Vs. State of M.P. & ors.	12/12/2022 SB	HC Website
20	W.P. No. 16360/2022 (Bunch)	Umesh Kumar Shrivastava Vs. State of M.P. & ors.	28/11/2023 SB	HC Website
21	W.P. No. 6695/2022	Dr. Pooja Sahu Vs State of MP & ors	29/03/2022 SB	HC Website
22	W.P. No. 25579/2023	Rajesh Kuswah & Another Vs State of MP & ors	13/10/2023 SB	HC Website
23	W.P. No. 3902/2023	Rajeshwari Yadav Vs State of MP & ors	23/09/2023 SB	HC Website
24	W.P. No. 2534/2023	Sankalp Shukla Vs State of MP & ors	26/04//2023 SB	HC Website
25	W.P. No. 2444/2024	Amar Singh Gond Vs MP State Agriculture Marketing Board & ors	16/02/2024 SB	HC Website

16/04/2024


[Samdarshi Tiwari]
Advocate

ing use of their discretionary powers of denying adjournments, imposing stringent timelines and monetary penalties on lawyers for non-compliance with deadlines, as this is one of the

major causes of delay. Additionally, measures like arranging meetings, discussion groups or presentations by legal experts on particular problematic areas of practice and strategies to improve, would also ensure timely lawyering.

CHILDHOOD, A FUNDAMENTAL RIGHT : LAW AND IRONY

By : Samdarshi Tiwari, Advocate, Jabalpur (Presently holding office of Addl. Advocate General, Govt. of M. P., Jabalpur).

No one knows who created Mankind on this planet but "Mankind" as we know, begins with childhood. There is life as blooms from each pinnacle of Mother Nature, seen or unseen, tangible or intangible but it manifests in different nascent forms giving pleasant surprises. A child is born as a gift from nature to Mankind. Great Poet William Wordsworth said "Child is the father of man..". It sounds paradoxical; however it might mean that if childhood is nurtured in heart, our inner child dictates all the great and wonderful things that we find in life. But, if that 'inner child' is killed in childhood itself, the grown up will become unsocial and may be a dent on Mankind. An adult is the product of the habits, manners and behavior that he inculcated during his childhood. Then, who is responsible of killing 'inner child' in our children and if that can be prevented, it will provide a wholesome solution of many of present problems the Nations are facing today. Then questions arise, how and by what means. It that process, every effort would rest either on social participation or on legal intervention.

Though, much has been written on the issue being an issue needs prime consideration to secure an idle and disciplined society, however, I have concentrated with my best of ability to identify the root causes of the problem and aspect of effectiveness of present laws of the land on the issue and legal intervention. Basic issue is, whether 'childhood' is a fundamental right of children or it is at the disposal of common law and the will of society.

Present laws in India deal only the crimes against children, which turns out ultimately to be the matter of statutory rights. Hon'ble Apex Court in *Maneka Gandhi's case* has expressed thus;

"The theory that a peripheral or concomitant right which facilitates the exercise of a named fundamental right or gives its meaning and substance or makes its exercise effective, is itself a guaranteed right included within the named fundamental right cannot be accepted.... Where a statutory provision empowering an authority to take action is constitutionally valid, action taken under it may offend a fundamental right and in that event, though the statutory provision is valid, the action may be void. Therefore, even though section 10(3)(c) is valid, the question would always remain whether an order made under it invalid as contravening a fundamental right.... It is true that in a proceeding under Article 32 of the Constitution, we are only concerned with the enforcement of fundamental constitutional rights and not with any statutory rights apart from fundamental rights."

Thus, a statutory right empowers an authority to take action only if violation of any statutory provision is found in a particular case but such protection is insufficient to ensure certain basic rights at large, related to children. Apart, doors of Article 32 are open only for enforcement of rights conferred by Part-III of the Constitution and not statutory rights. SHOCKING DATA - PRESENT SCENARIO

India with 1.21 billion people constitutes as the second most populous country in the world, while children represents 39% of total population of the country. The figures show that the larger number of about 29 per cent. constitutes children in the age between 0-5 years. Uttar Pradesh (19.27%) is the State with

1. Maneka Gandhi v. Union of India : AIR 1978 SC 597.

29/4/2014
Administration:
Madhya Pradesh

highest children's population in the country, followed by Bihar, Maharashtra, West Bengal and Madhya Pradesh constitutes 52% of children's population in the country.²

In our country, crime against children starts even before birth. The strong preference for sons under patriarchal traditions and the availability of inexpensive prenatal diagnostic techniques have resulted in an increased use of prenatal gender tests in India, even among the rural poor. The Government of India has also enacted *Pre Natal Diagnostic Techniques Act of 1994* and the *Medical Termination of Pregnancy Act of 1971* was enacted by the Government of India with the object of reduction in the incidence of illegal abortion and consequence maternal mortality and morbidity.

The Indian Penal Code (Act No. 45 of 1860) provides an exception and permits abortion only when it is justified for the good faith purpose of saving the life of the woman.

In many parts of India, daughters are not preferred and hence sex-selective abortion is commonly practiced, though being illegal in India. To address the same, some statutes provide certain benefits to unborn child, resulting in an unnatural male to female population sex ratio due to millions of developing girls selectively being targeted for termination before birth.

Sections 302 to 316 of the Penal Code provided that any person performing an illegal abortion was subject to imprisonment for three years and/or payment of a fine; if the woman was "quick with child", the punishment was imprisonment for up to seven years and payment of a fine.

Girl child neglect was assessed comparing to her brothers on factors like attention, food, recreation time, household work, taking care of siblings, etc. 70.57% of girls reported having been neglected by family members. 48.4% of girls wished they were boys.³

In 2007, the Ministry of Women and Child Development (MWCD) released a study report on child abuse. The report discusses incidence of child abuse nationwide. Children between the ages of 5-12 are at the highest

risk for abuse and exploitation. It is estimated that 150 million girls and 73 million boys under 18 have been subjected to forced sexual intercourse or other forms of sexual violence. In 2002 there were 53,000 reported cases of child homicide. ILO estimates show there were 218 million child labourers in 2004, out of which 126 million were engaged in hazardous work.

Every two out of three school children reported facing corporal punishment.

Child abuse in India is often a hidden phenomenon especially when it happens in the home or by family members. Focus with regards to abuse has generally been in the more public domain such as child labour, prostitution, marriage, etc. Intra-family abuse or abuse that takes place in institutions such as schools or Government homes has received minimal attention. This may be due to the structure of family in India and the role children have in this structure. Children in India are often highly dependent on their parents and elders; they continue to have submissive and obedient roles towards their parents even after they have moved out of their parental home. This belief that parents and family are the sole caretaker of the child has proved to have negative effects on child protection laws and strategies. Number of cases of child abuse in the home are hard to attain because most of these crimes go unreported. Societal abuses that are a result of poverty such as malnutrition, lack of education, poor health, neglect, etc. are recognised in various forms by the Indian legal system. But India does not have effective law that protects children against abuse in the home. Mal-treatment of care givers has the potential to emotionally and mentally harm children to a very different degree. Studies in intra-familial child abuse in the US have shown correlation to delinquency, crime, teenage pregnancy, and other psycho-social problems.

The study of the *MWCD* found a wide spread incidence of child abuse in juvenile justice institutions, 70.21 % of children in conflict with law and 52.86% of children in need of care and protection reported having been physically abused. The study found that 69% of children reported to have been physically abused. Out of these 54.68% were boys. 52.91% of boys and 47.09 % of girls reported having been abused in their family environ-

2. Data Source : Census of India 2010-11.

3. Study for National Commission for Protection of Child Rights (NCPCR).

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ment. Of the children who were abused in family situations 88.6% were abused by their parents.

With regard to child labour, 50.2% of children work all seven days of the week. 81.16% of the girl child labourers work in domestic households, while 84% of the boy child labourers worked in tea stalls or kiosks. 65.99% of boys and 67.92% of girls living on the street reported being physically abused by their family members and other people.

The study examined emotional abuse and girl child neglect. The study examined two forms of emotional abuse: humiliation and comparison. Half the children reported facing emotional abuse with 83% of that abuse begin conducted by parents.

In 2002 there were 53,000 reported cases of child homicide.

RIGHTS OF A CHILD

The history of children's rights dates from the 19th century. Prior to that, there were no particular mechanisms in place to protect children. In ancient times and up to the Middle Ages, in some parts of the world, parents even had the power of life or death over their children.

19th century :

The 19th century marked the start of children's rights. The child began to be considered as a being in need of protection. For the first time in Europe, laws were passed governing child labour. Different legal texts progressively encouraged or made education obligatory for young children, and society recognized the fact that the child could not be dealt with in the same way as an adult.

20th century : children become subjects of rights

The history of children's rights accelerated in the 20th century. In 1919, the League of Nations created a committee for the protection of children. Five years later, it adopted the *Geneva Declaration, first international treaty on children's rights, inspired by the work of Janusz Korczak, who is considered to be the father of children's rights.*

After the *Second World War*, the history of children's rights underwent several key stages following the creation of the **United Nations :**

- o 1948: Universal Declaration of Human

Rights, which stipulates that motherhood and childhood are entitled to special care and assistance.

- o 1959: The UN adopted the *Declaration of the Rights of the Child*, which recognized the child as a subject of rights.
- o 1989: On November 20, *the Convention on the Rights of the Child (CRC) was unanimously adopted by the United Nations General Assembly.*

21st century : towards an effective application of children's rights?

- o 2000: Strengthening of the CRC with the adoption of two optional protocols on the sale of children, child prostitution and child pornography, and child involvement in armed conflicts.
- o 2011: Adoption of a third optional protocol, introducing a mechanism by which children may submit complaints to the Committee on the Rights of the Child.
- o 2014: The 25th anniversary of the Convention. It has now been ratified by 193 member States of the United Nations. Only the United States and Somalia, who have both signed the treaty, have not ratified it.

The four guiding principles of the Convention on the Rights of the Child are: Non-discrimination priority given to the best interests of the child, Right to life, survival and development, Respect for the views of the child. Beyond these principles, UNCRC recognizes following rights of children:

The right to an identity (Articles 7 and 8)-

All children have the right to a name and nationality from birth, ensuring his protection and support by his own country. If the birth is not registered, the child will not be recognized by the State and will not receive care nor education.

The right to health (Articles 23 and 24)-

All children should be cared for if sick, be well-fed, protected from drugs, and enjoy living conditions which are not dangerous to their health.

The right to education, (Article 28)-

All children have the right to an education and access to skills which will help them prepare for their future.

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The right to a family life (Articles 8, 9, 10, 16, 20, 22 and 40)-

All children have the right to live with people who love and care for them, preferably their families, or by carers if their own families cannot look after them.

Right to be protected from violence (Articles 19 and 34)-

Each child must be protected from violence, from his own family or any person who wishes to harm him. He should never be obliged to suffer or inflict ill-treatment or any act of sexual or physical violence.

The right to an opinion (Articles 12 and 13)-

All children have the right to express their views. They also have the right to be informed and give their opinion about the world around them.

The right to be protected from armed conflict (Articles 38 and 39)-

All children must be protected from war and its consequences, such as being a refugee, injured, prisoner, or forced into armed conflict.

The right to be protected from exploitation (Articles 19, 32, 34, 36 and 39)-

A child should not be obliged to work in difficult or dangerous conditions, in order to survive or support his family.

The right to equality and respect for differences. Each child has the same rights, regardless of his race, colour, religion, language or culture, gender, or abilities.

SCENARIO IN INDIA:

In India, unfortunately, there are no fundamental rights specific to children framed in our Constitution but are presumed to be covered by the fundamental rights otherwise available in Part III to citizens in general. They are abandoned. They do not get a chance to step in a school. They are left to fend for themselves on the streets. They suffer from many forms of violence. They do not have access to even primary healthcare. They are subjected to cruel and inhumane treatments every day. They are children – innocent, young and beautiful – who are deprived of their rights.

In 2014 Nobel Peace Prize awardees—Ms. Malala Yousafzai and Mr. Kailash Satyarthi have reminded us all of the need to keep on

advancing in providing opportunities that has an important effect on all children. The opportunities are meant to be meaningful enough to allow them to learn and gain the mindsets and skills that would empower them to be free, develop themselves, their communities and the world.

WHEN A HUMAN CEASES TO BE A 'CHILD' —

Infact, defining what age a person is or ceases to be a child is a constant debate in the India. The *Census of India* considers children to be any person below the age of 14. Biologically 'childhood' is the stage between infancy and adulthood. According to the UNCR, 'a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier'. This definition of child allows for individual countries to determine according to the own discretion the age limits of a child in their own laws. But in India various laws related to children define children in different age limits.

The *Indian Penal Code, 1860* finds that no child below the age of seven may be held criminally responsible for an action (Section 82, IPC). In case of mental disability or inability to understand the consequences of one's actions the criminal responsibility age is raised to twelve years (Section 83, IPC). A girl must be of at least sixteen years in order to give sexual consent, unless she is married, in which case the prescribed age is no less than fifteen. With regard to protection against kidnapping, abduction and related offences the given age is sixteen for boys and eighteen for girls.

According to Article 21-A of the Constitution, all children between the ages of six to fourteen should be provided with free and compulsory education. Article 45 states that the State should provide early childhood care and education to all children below the age of six. Lastly Article 51(k) states the parents/guardians of the children between the ages of six and fourteen should provide them with opportunities for education.

The *Child Labour (Prohibition and Regulation) Act, 1986* defines a child as a person who has not completed fourteen years of age. The *Factories Act, 1948* and *Plantation Labour Act, 1951* states that a child is one that has not completed fifteen years of age

and an adolescent is one who has completed fifteen years of age but has not completed eighteen years of age. According to the *Factories Act* adolescents are allowed to work in factories as long as they are deemed medically fit but may not for more than four and half hours a day. The *Motor Transport Workers Act, 1961*, and *The Beedi and Cigar Workers (Conditions of Employment) Act, 1966*, both define a child as a person who has not completed fourteen years of age. *The Merchant Shipping Act, 1958* and *Apprentices Act, 1961* don't define a child, but in provisions of the act state that a child below fourteen is not permitted to work in occupations of the act. *The Mines Act, 1952* is the only labour related Act that defines adult as person who has completed eighteen years of age (hence a child is a person who has not completed eighteen years of age).

The Prohibition of Child Marriage Act, 2006 states that a male has not reached majority until he is twenty-one years of age and a female has not reached majority until she is eighteen years of age. *The Indian Majority Act, 1875* was enacted to create a blanket definition of a minor for such acts as the *Guardians and Wards Act of 1890*. Under *the Indian Majority Act, 1875* a person has not attained majority until he or she is of eighteen years of age. This definition of a minor also stands for both the *Hindu Minority and Guardianship Act, 1956* and the *Hindu Adoption and Maintenance Act, 1956*. Muslim, Christian and Zoroastrian personal law also upholds eighteen as the age of majority. The first *Juvenile Justice Act, 1986* defined a boy child as below sixteen years of age and a girl child as below eighteen years of age. *The Juvenile Justice (Care and Protection of Children) Act, 2000* has changed the definition of child to any person who has not completed eighteen years of age.

Because of its umbrella clauses and because it is the latest law to be enacted regarding child rights and protection, many are of the opinion that the definition of child found in the *Juvenile Justice Act, 2000* should be considered the legal definition for a child in all matters.

IDENTIFYING RIGHTS:

In our country, rights of children are recognized to be essential rights by way of judi-

cial pronouncement, as our Courts take the task to determine it, when occasion so arises. Infact, our legislators are expected to realize need to recognize fundamental rights of children in following areas:

Right to Survival:

- Right to be born,
- Right to minimum standards of food, shelter and clothing,
- Right to live with dignity,
- Right to health care, to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy.

Right to Protection:

- Right to be protected from all sorts of violence,
- Right to be protected from neglect,
- Right to be protected from physical and sexual abuse,
- Right to be protected from dangerous drugs.

Right to Participation:

- Right to freedom of opinion,
- Right to freedom of expression,
- Right to freedom of association,
- Right to information,
- Right to participate in any decision making that involves him/her directly or indirectly.

Right to Development:

- Right to education,
- Right to learn,
- Right to relax and play,
- Right to all forms of development – emotional, mental and physical.

Out of above, only the 'right to education' has been specifically identified to be the basic right of children only after intervention of Supreme Court. The addition of the *Right to Education (RTE)* in the *Universal Declaration of Human Rights in 1948* was the beginning of a remarkable expansion of educational opportunities around the world. The Apex Court led a great importance on various aspects of the issues related to children qua the ideals of social and economic justice. It was

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observed in *Unni Krishnan's* case that Article 21 is the heart of Fundamental Rights and it has extended the scope of Article 21 by observing that the right to life includes the education as well as, as the right to education flows from the right to life.

As a result of expansion of the scope of Article 21, the Public Interest Litigations in respect of children in jail being entitled to special protection, health hazards due to pollution and harmful drugs, housing for beggars, immediate medical aid to injured persons, starvation deaths, the right to know, the right to open trial, inhuman conditions in aftercare home have found place under it.

Through various judgments the Apex Court also included many of the non-justifiable Directive Principles embodied under Part IV of the Constitution and some of the examples are as under:

- (a) Right to pollution free water and air.
- (b) Protection of under-trial.
- (c) Right of every child to a full development.
- (d) Protection of cultural heritage.

The Government of India by *Constitutional (86th Amendment Act) Act, 2002* had added a new Article 21-A, which provides that -

"The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State may, by law determine".

Further, they strengthened this Article 21-A by adding a clause (k) to Article 51-A, which provides for those who are a parent or guardian to provide opportunities for education to his/her child or ward between the age of 6 and 14 years. On the basis of the Constitutional mandate provided under Articles 41, 45, 46, 21-A, 51-A(k) and various judgments of Apex Court, both the Government of India, has taken several steps to eradicate illiteracy, improve the quality of education and simultaneously ensure that the dropouts are brought to nil.

The Parliament of India enacted the *Right of Children to Free and Compulsory Educa-*

tion Act or Right to Education Act (RTE) on August 2009. The same got enforced on April 1st, 2010.

AWAKENING:

The Commissions for Protection of Child Rights Act, 2005 has ultimately been enacted with following statement, objects and reasons:

"An Act to provide for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto. WHEREAS India participated in the United Nations (UN) General Assembly Summit in 1990, which adopted a Declaration on Survival, Protection and Development of Children; AND WHEREAS India has also acceded to the Convention on the Rights of the Child (CRC) on the 11th December, 1992; AND WHEREAS CRC is an international treaty that makes it incumbent upon the signatory States to take all necessary steps to protect children's rights enumerated in the Convention; AND WHEREAS in order to ensure protection of rights of children one of the recent initiatives that the Government have taken for children is the adoption of National Charter for Children, 2003; AND WHEREAS the UN General Assembly Special Session on Children held in May, 2002 adopted an Outcome Document titled "A World Fit for Children" containing the goals, objectives, strategies and activities to be undertaken by the member countries for the current decade; AND WHEREAS it is expedient to enact a law relating to children to give effect to the policies adopted by the Government in this regard, standards prescribed in the CRC, and all other relevant international instruments".

The National Commission for Protection of Child Rights (NCPCR) was established in March 2007 as a statutory body under the **Commissions for Protection of Child Rights Act, 2005**. It was set up to protect, promote and defend child rights in the country. The Commission consists of a chairperson and six members who are well versed in child welfare.

Functions of the Commission:

Examine any law or constitutional provisions to ensure that the safeguards of the law protect child rights,

4. *Unni Krishnan, J. P. and Ors. v. State of Andhra Pradesh and Ors.*: AIR 1993 SC

Handwritten signature and stamp: "High Court of Madhya Pradesh Jabalpur"

Provide the Central Government with recommendations to improve correct the safeguards,

Inquire into child rights violations,

Examine the risk factors for children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures

Look into the special care and protection of children from distress, marginalised and disadvantaged backgrounds

Study and ensure implementations of child rights treaties

Conduct research in the field of child rights

Create awareness through various mediums

Inspect any children's home or observations homes where children have been detained

Inspect any juveniles custodial home, or place of residence or institution for children, under the control of the Central Government or any other authority, and take up with authorities for remedial action.

Inquire into complaints and take *suo motu* notice of matter relating to deprivation and violation of child rights or non implementation of laws providing for protection and development of children or non compliance of policy decisions, guidelines or instructions to ensure welfare of the children.

India has also launched an *Integrated Child Protection Scheme* which aims at shielding children from violence and abuse.

WAYAHEAD:

Although, our Parliament has enacted Commissions for Protection of Child Rights Act, 2005 and Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) after inserting certain provisions by *Constitutional (86th Amendment Act) Act, 2002*, but declaring certain rights of our children to be '*fundamental rights*' has still seems to go a long way. The *Fundamental Rights* are defined as basic human freedoms that every Indian citizen has the right to enjoy for a proper and harmonious development of personality. These rights universally apply to all citizens, irrespective of race, place of birth, religion,

caste or gender. Law protects physical harm and exploitation of children but still the childhood itself has not been recognized to be the fundamental right of each child. Just like sense of freedom or life has been recognized to be the fundamental rights in our Constitution, childhood needs to be recognized as a guaranteed right under Part III of our Constitution. In *A.K. Gopalan's case*, Apex Court has way back expressed;

"The material points substantially altering the edifice are first in the Preamble which declares India a Sovereign Democratic Republic to secure to all its citizens justice, liberty and equality and to promote among them all, fraternity. Part III of the Constitution is an important innovation. It is headed "Fundamental Rights."⁵

The words, '*all its citizens*' though include children but still Part-III needs to take care of citizens of special category who are innocent and unaware of their rights. An adult citizen can claim his or her fundamental right but a child, who is even not aware about him/herself while subjected to injustice, torture, inequality, poverty, illiteracy, malnutrition etc. is dependent on elders or sometimes, ruthless system for justice through others. Though all the relevant rules and policies are in place, there is a lack in enforcement initiatives.

The law enforcement agencies and even our Courts need to be sensitive, polite and vigilant while dealing with the matters related to children.

As barriers, there are several factors that forbid effective implementation of the laws. Due to relatively low success in achieving concrete child development outcomes in India, the condition of underprivileged kids and underprivileged youth is harsh and needs urgent attention. There is a need to intensify efforts for children welfare at all levels to implement the rules and provisions of the Convention and contribute to create a world suitable for children. This is may be because innocence of a child or childhood has not been recognized to be a guaranteed right.

5. A.K. Gopalan v. State of Madras : AIR 1950 SC 27.

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29/11/2011



भारतीय प्रबंध संस्थान बंगलूर
INDIAN INSTITUTE OF MANAGEMENT
BANGALORE

Certificate of Presentation

This is to certify that

Sandarshi... Tivori

Presented in the 5th International Conference on

Law and Economics

held at the

Indian Institute of Management Bangalore

28th & 29th December 2019

Hema

Prof. Hema Swaminathan
Chairperson, Centre for Public Policy

Rupa Chanda

Prof. Rupa Chanda
Chairperson, Economics & Social Sciences

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मध्य प्रदेश राज्य अधिवक्ता परिषद : जबलपुर
हाईकोर्ट प्रांगण, जबलपुर-482007



आर.जी.वर्मा
कार्यकारी सचिव

कार्यालय: 0761-2678877
Email :- bar_council_mp@yahoo.in

क0 एस.बी.सी./एम.पी./शिकायत प्र.क.52/2018/5383 दिनांक 20.11.2018
रजिस्टर्ड पोस्ट

प्रति,

1. श्री मुकुन्ददास माहेश्वरी,
आत्मज स्व. श्री सेठ नरसिंह दास,
निवासी- राजा गोकुल वल्लभ पैलेस,
हनुमानताल, जबलपुर (म.प्र.)
2. श्री समदर्शी तिवारी, एडवोकेट,
निवासी -12,-डेनिंग रोड साउथ सिविल लाइन,
जबलपुर (म0प्र0)
3. श्री संतोष पाण्डे, एडवोकेट,
निवासी पाटन, पुष्पक नगर,
साई मंदिर के पास पाटन,
जिला जबलपुर (म0प्र0)


विषय:- शिकायत प्र.क.52/2018- मुकुन्ददास माहेश्वरी वि0 श्री समदर्शी तिवारी, एडवोकेट
एवं अन्य एडवोकेट, जबलपुर ।


महोदय,

उपरोक्त शिकायत प्र.क.52/2018 में अनुशासन समिति जबलपुर द्वारा दिनांक
22.10.2018 को अंतिम आदेश पारित किया गया है । पारित आदेश की एक सत्यप्रतिलिपि
इस पत्र के साथ संलग्न कर आपकी ओर प्रेषित की जा रही है ।

संलग्न:- उपरोक्तानुसार ।

भवदीय


(आर.जी.वर्मा)
कार्यकारी सचिव


29/11/2018



RIGHT TO
INFORMATION

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DISCIPLINARY COMMITTEE STATE BAR COUNCIL OF M.P.

Complaint Case no.52/18

Complainant :-

Mukund Das Maheshwari, Jabalpur

Vs.

Respondents :-

Samdarsi Tiwari, Advocate Jabalpur

Santosh Pande, Advocate Jabalpur

Order-21-10-2018

Grievance of the petitioner/complainant is that the respondent advocates, additional advocate general & Government advocate respectively, furnished false/wrong opinion/advice of the queries sought by sub divisional officer (revenue) Revenue sub division, patan of district Jabalpur M.P. without appreciating the material on record resulting in monetary loss of Rs.-21,96040/- (twenty one lakhs ninety six thousand & forty) to the complainant/petitioner. In our opinion the respondents being additional advocate general and government advocate are legal advisors of the state, State authorities & its officers and are supposed to give legal advice/opinion whenever it is expressly sought from them by any authority of the state. Such legal opinion/advice are given as part of their duty & no fee is charged for the same. The nature of legal opinion remains as advice to the authority seeking opinion having no binding effect and it remains on the discretion of the authority seeking opinion to follow or not and also the decision of the authority can be called in question before appropriate forum.

In the instant case the sub divisional officers (Revenue), sub division, patan of district Jabalpur sought legal opinion which is purely of legal nature and only by giving their opinion, the respondent advocates can not be said to have committed professional or other misconduct defined under section 35 of advocate's Act, Finding no case under section 35 of the advocate's act, the complaint is here by dismissed.

[Signature]
29/10/2018

[Signature]
Jagannath Tripathi
Chairman

[Signature]
R.K.Singh Saini
Member

सत्यप्रतिलिपि

[Signature]
Mohd. Ali
Member



कार्यकारी सचिव

म.प्र.राज्य अधिवक्ता परिषद जबलपुर



HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT – JABALPUR

No. D/25/19 /2022

Jabalpur, Dated 05/12/2022

To,

Shri Samdarshi Tiwari
Advocate,
12- Denning Road, near Prestige Town,
South Civil Lines,
Jabalpur-482001(M.P)

Sub.: - Regarding Designation of Senior Advocate.

Ref.:- Your representation dated 25.04.2022

Respected Sir,

With reference to the subject cited above, it is to inform you that after due consideration, your representation dated 25.04.2022 has been filed by the Committee No.25 – “Permanent Committee for Designation of Senior Advocates”. The copy of resolution dated 09/11/2022 of Hon’ble Committee is enclosed herewith.

Encl.:-Copy of resolution dated 09/11/2022 of the Committee No.25 – “Permanent Committee for Designation of Senior Advocates”.


5/12/22

(Vikas Chandra Mishra)
Registrar (Administration)/
(Secretary of the Permanent Committee for
Designation of Senior Advocates)

RESOLUTION

It is resolved that in the light of Para 73.10 of the Judgment of Hon'ble the Supreme Court in **Ms. Indira Jaising Vs. Supreme Court of India & Others** reported in (2017) 9 SCC 766 and Rule 20 of the High Court of Madhya Pradesh (Designation of Senior Advocates) Rule, 2018, there is no authority to consider the representations. Power to review or reconsider does not exist.

The concerned Advocates are entitled to apply afresh in terms of Rule 20 of the High Court of Madhya Pradesh (Designation of Senior Advocates) Rules, 2018.

The representations of Shri Ankur Mody, Advocate, Gwalior, Shri Vivek Dalal, Advocate, Indore, Shri Samdarshi Tiwari, Advocate, Jabalpur and Shri Mohammad Ali, Advocate, Jabalpur be filed.

The Minutes are placed for kind perusal and approval.

Sd/-
(Hemant Joshi)
Principal Registrar (Judicial) /
(Secretary of the Permanent Committee for
Designation of Senior Advocates)

(On Leave)
(Vikas Chandra Mishra)
Registrar (Administration) /
(Secretary of the Permanent Committee for
Designation of Senior Advocates)


Shri Kishore Shrivastava, Senior Advocate (Not Available)

The Advocate General – Shri Prashant Singh, Senior Advocate – Sd/-

Hon'ble Shri Justice Sujoy Paul – Sd/-

Hon'ble Shri Justice Sheel Nagu – Sd/-

Sd/-
Hon'ble Chief Justice


5/12/24

SAMDARSHI TIWARI
ADVOCATE
High Court of Madhya Pradesh, INDIA
Jabalpur, Indore, Gwalior

*Former Additional Advocate General
Government of Madhya Pradesh
*Standing Counsel for the High Court of M.P.

Office & Residence
12-Denning Road, South Civil Lines,
JABALPUR-MP, INDIA PIN - 482 001

Phone & FAX: 0761-2629892
Cell : 094067 37670

mail : samdarshitiwari@gmail.com

25.04.2022

To,

**Hon'ble the Chairman,
Permanent Committee for Designation of Senior Advocate,
Through it's Secretary & The Registrar (Administration),
High Court of Madhya Pradesh,
JABALPUR-M.P.**

SUB- Prayer for justice.

Hon'ble Sir,

Kindly allow me to submit that the High Court of Madhya Pradesh in exercise of the powers conferred by Section 16 (2) of the *Advocates Act, 1961* has designated 15 Advocates as Senior Advocates vide Notification no. B/1618 issued on 11/03/2022. The Rules have been framed pursuant to the directions issued by the Hon'ble Supreme Court *In Re: Indira Jaisingh Vs. Supreme Court of India* reported in **(2017) 9 SCC 766**.

I had applied for my designation as Senior Advocate initially on 12/03/2018. Said application was returned in the wake of formulation of Rules as per the above referred Apex Court decision. An afresh application was submitted by me in the prescribed format in accordance with the Rules of 2018 on 09/05/2019. Thereafter, the Rules had undergone vast amendment on 29/06/2021 and pursuant to a communication by the Registrar (Admn.), I had to submit revised application on 29/07/2021 with updated information, as required by the amended Rules. I was called for interaction before the *Permanent Committee* on 03/03/2022, which I attended. Vide Notification no. B/1618 issued on 11/03/2022, 15 advocates have been designated as Senior Advocates. Later, I was communicated vide letter dated 16/03/2022 that my application has not been favourably considered.

Myself (*Enrollment No. MP 2309/1996*), having put in about 26 years of dedicated practice in High Court running in 53rd year of my age, feels disappointed and humiliated by the rejection of my application. The criteria which the High Court has laid down on the basis of the judgment of the Apex Court, distributes marks as follows:-

SAMDARSHI TIWARI
ADVOCATE
High Court of Madhya Pradesh, INDIA
Jabalpur, Indore, Gwalior

*Former Additional Advocate General
Government of Madhya Pradesh
*Standing Counsel for the High Court of M.P.

Office & Residence
12-Denning Road, South Civil Lines,
JABALPUR-MP, INDIA PIN - 482 001

Phone & FAX: 0761-2629892
Cell : 094067 37670

mail : samdarshitiwari@gmail.com

(a) Number of years of practice	- 20 points.
(b) Judgments reported and unreported	- 40 points.
(c) Publication by applicant advocate	- 15 points.
(d) Test of personality and suitability	- 25 points.
Total	- 100 points.

It is learnt that I could not acquire even 50 marks, which was the cut-off. I don't wish to compare my credentials as given in column (b) & (c) corresponding to Rule 16 with several fortunate applicants, but I could confidently anticipate my standing in column (b) as far as the judgments in constitutional and civil matters, including 7 Full Bench decisions, involving my personal appearance and active legal assistance.

I have been serving this high Institution as an officer of the Court since last more than 25 years with utmost devotion and the sense of responsibility. I held the office of Government Advocate, Deputy Advocate General and thereafter the Additional Advocate General and served as such till December 2018. Even, I have been trusted to be the Standing Counsel for the High Court. Even after leaving the office of Advocate General in December 2018, I have been continuously appearing in Civil, constitutional, mining, professional education and service matters as a private practitioner.

It is also learnt from the documentary material available on social media, particularly; entire pdf file of MoM of Full Court meeting, which seems to be authentic, that I was originally given 60 marks by the Permanent Committee but later, heavy over-writing was done over the awarded marks thereby reducing marks in column (b) and (d). Eventually, the final marks awarded in the last column of the Assessment Sheet are changed from 60 to 40, which is shocking.

Marks appears to have been given before over-writing :				
(a)	(b)	(c)	(d)	Total
20	20	-	20	60
Marks finally given to me after over-writing :				
20	10	-	10	40

That apart, no marks have been awarded to me for my article published the reputed law journals like, AIR and MPLJ. No reasons have been assigned in this regard. No reasons whatsoever have been given to reduce my marks in 3 columns of Assessment Sheet against my name. This has shaken my confidence in the process, which I did

SAMDARSHI TIWARI
ADVOCATE
High Court of Madhya Pradesh, INDIA
Jabalpur, Indore, Gwalior

*Former Additional Advocate General
Government of Madhya Pradesh
*Standing Counsel for the High Court of M.P.

Office & Residence
12-Denning Road, South Civil Lines,
JABALPUR-MP, INDIA PIN - 482 001

Phone & FAX: 0761-2629892
Cell : 094067 37670

mail : samdarshitiwari@gmail.com

believe to be impartial and transparent. It has also put me into great sense of injustice, sorrow and humiliation amongst my colleagues, friends and family.

In these circumstances, kindly look into my grievance and ensure that no injustice is done to me within this temple of justice.

I tender my sincere apology for bothering this Hon'ble Committee with a prayer to appreciate my grievance and do the needful.

Thanking you.

JABALPUR
DATED: 25/04/2022

Sincerely,


[Samdarshi Tiwari]
Advocate

**IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR**

W.P. No. 9796 of 2015 AND CONNECTED BUNCH OF CASES

PETITIONER : City Prathmik Upbhokta Sahkari

Versus.

RESPONDENTS : State of M.P. and others

SYNOPSIS

	Facts/ Particulars
A	Constitutional validity of Provisions of M.P. PDS (Control) Order 2015 is under challenge which came into force w.e.f 25/03/2015:
a	Clause 7 : Number and location of Fair Price Shops
b	Clause 8 : Allotment of Fair Price Shops
c	Schedule II of Clause 8 : Who are to be allotted FPS.
d	Clause 9 : -Participation of women in operation of FPS. -30% reservation for women
e	Clause 10(2) : Minimum academic qualification of salesman of FPS.
f	Clause 12 : Allocation Storage and Transportation through Authorized agency.
g	Clause 2(d) : "Authorized Agency" defined to be M.P. State Civil Supplies Corporation.
h	Clause 20 : Repeal and saving.
B	Entire M.P. PDS (Control) Order 2015 is under challenge.
	Challenge to Clauses 7, 8 and Schedule II of Clause 8, 9 and 20 is on the ground of violation of Articles 14, 16, 19 (1)(g) and unreasonable classification, no nexus with the object sought to be achieved, rights and obligations accrued to the petitioners under earlier control orders are saved and the New Control order would be operative prospectively. (by existing FPS owners)
	Challenge to Clauses 12, 2(d) is on the ground of violation of Articles 14, 16, 19 (1)(g) and no nexus with the object sought to be achieved (by existing transporters/lead societies)
	Challenge to Clauses 10(2) is on the ground of violation of

3.	31/07/2018	<p>The State Government had convened a high level meeting of Deans of all Government Medical Colleges in the Chairmanship of the Additional Chief Secretary on 31/07/2018. Minutes of the aforesaid meeting were circulated by the Dean of Medical College, Jabalpur, which reflected important decisions for effective execution of the Cabinet decision. Other decisions with regard to budgetary provisions, infrastructure etc., were also taken.</p> <p><i>*The office of the Dean of NSCB Medical College has endorsed these minutes as the mandate of the government for implementation. The Director is given all powers of Dean as the administrative head of the department. These recommendations are acted upon in respect of all the Super specialties established under the Cabinet decision.</i></p>	<p>P/6 Page 40</p>
4.	06/08/2018	<p>The State Government under the approval of the Cabinet had formulated <i>M.P. Super Specialty Hospital Medical Teachers Model Service Rules, 2018</i>, which were circulated vide order dated 06/08/2018, as stood amended on 09/10/2018. Those rules were duly adopted by the Executive Council of the Medical College of Jabalpur. Vide a separate order dated 11/09/2018; the State Government has approved <i>Schedule-I (Medical Teacher Cadre)</i> to be appended to the rules specifying the number of posts, pay and qualifications for respective posts, including the post of the Director of the <i>School of Excellence in Pulmonary Medicine</i>.</p> <p><i>*Erstwhile T.B. & Chest Department has been upgraded as a Super Specialty Department and there is no post like 'Head of the Department' is sanctioned except single post of 'Director-Professor' who is the only head of the broad super specialty department for the purposes of administration of SEPM and NMC inspections.</i></p>	<p>P/8 & P/9 Page 45 & 55</p> <p>* This set-up is in accordance with Regulation 11.1 of <i>MCI PG Regulations 2000</i>, available at page 27 of intervention IA No. 1107/24 <u>Read with</u> Clause 33 & 39 of <i>NMC PG Assessors Guide 2021-22</i> available with Rejoinder (Doc No. 3005/24) Annexure-RJ/3 page 33.</p>

	<p><i>Committee</i> would be implemented in every state.</p> <p>(vi) Thus the present control order of 2015 framed by the State Govt. is based upon the recommendations of the <i>Wadhwa Committee</i> which have been approved by the Hon'ble Supreme Court.</p>
	<p>Existing Setup:</p> <ul style="list-style-type: none"> • <u>Categories of Households:-</u> <ul style="list-style-type: none"> (i) Antyoday Ann Yojna Households-AAY, (ii) Priority Households- <ul style="list-style-type: none"> (a) All BPL Households. (b) Non BPL Households divided into 24 categories. • Allocation is by Central Govt. of <ul style="list-style-type: none"> (i) Foodgrains, (ii) Kerosene, (iii) Sugar; <p>to the State Govt. which is further allocated (online) to the FPS by the Commissioner, Food Civil Supplies and Consumer Protection Govt. of M.P. on the basis of households registered at the FPS.</p> <ul style="list-style-type: none"> • At present there are 1.16 Crores beneficiaries registered out of which 99 lakhs are Priority Households. • Authorized Agency i.e. the <i>M.P. Civil Supplies Corp.</i> is required to lift the supplies from the godowns and transport it to the FPS (<i>Door Step Supply scheme</i>)/ (<i>Dwar Praday Yojna</i>).
<p><i>Legislative Competence</i></p>	<p>Submission on Challenge to the legislative competence of the State Govt. to frame such order in view of the provisions contained in the <i>Essential Commodities Act 1955</i>:</p> <ul style="list-style-type: none"> (i) Source of Power of the State Govt. to frame the PDS Control Order 2015 are following:- <ul style="list-style-type: none"> (a) Section 3, R/w Section 5 of the Essential Commodities Act 1955, empowers the State Govt. to frame the Control Order to regulate and control the Targeted PDS in the State of M.P. (b) S.O 681 (E) and S.O. 682 (E) both date 30/11/1974 issued by the Ministry of Industries and Civil Supplies (Department of Civil Supplies and Cooperation) and GSR 800 dt.9/06/1978 of the Ministry of Agriculture and

		<p>petitioner had joined the post of the Director.</p> <p><i>*Right from the year 2019 till May 2022, when the present incumbent took over current charge of the office of the Dean, the functioning of SEPM was smooth and the administrative efficiency of the petitioner was unquestionable.</i></p>	
7.	26/12/2022 17/05/2023	The petitioner has enforced strict norms to maintain discipline in the Institution as a regular practice, which became reason of annoyance by several subordinates, who have instigated a few PG residents also.	P/16 & P/17 Page 85 & 87
8.	04/08/2023	For showing indiscipline and mismanagement while discharging teaching duties, the petitioner has put several subordinate employees to the notice to show-cause and recommended for disciplinary action against them. The disciplinary authority, i.e. the respondent No.3 after holding due disciplinary proceedings has found Dr. Sanjay Bharti, Professor (Respiratory Medicine) and Dr. Bramhprakash, Associate Professor (Respiratory Medicine) guilty of misconduct and accordingly, vide respective order dated 04/08/2023 appropriate punishment was inflicted upon them.	P/18 & P/19 Page 89 & 91
9.	08/08/2023	<p>The all the intervener tendered their resignation from service w.e.f. the expiry of 30 days and such resignation neither was withdrawn nor was interfered with prior to 08/09/2023 by the Divisional Commissioner.</p> <p><i>*Enclosed with the return of respondents No.3 & 4 at Page 12. Apparently reason for resignation was the punishment inflicted upon two of them.</i></p>	R/1 Page 12
10.	08/08/2023	On account of the complaints made by the interveners, the petitioner personally met respondent No.3 to explain these false complaints, he was suggested to give his	P/26 Page 114

	<p>No.3847/2010 (<i>Sai Kripa Gramin Vs State Of M.P.</i>) and connected bunch of petitions vide order dt.16/12/2011 in para 5 and 14 has held that the Control order 2001 of the Central Govt. empowers the State Govt. To frame a control order to regulate the TPDS and <i>there is no repugnancy between the two</i> (Central and State Control order). Similar provision is also there in the 2015 (Central Control order).</p>
A-a	<p><i>Submission on Challenge to the other clause as being violative of Articles 14, 16 and 19(1)9(g) and 21 of the Constitution of India.</i></p> <p>Challenge to Clause 7: Fixation of number of Fair Price Shop:</p> <ul style="list-style-type: none"> • In order to rationalize the existing FPS and in order to ascertain the Financial Viability of the FPS it was deemed appropriate to fix the maximum number of FPS in any urban area within a district by dividing the total number of eligible households by 800. On an average a household comprises of 5 members and therefore for an average population of 4000 there would be one FPS in urban area. In earlier Control order of 2009 there was one FPS for the population of 5000. Thus there would not be reduction in number of shops but there would only be rationalization in number of shops so as to ensure the FPS so running achieves profit breakeven. • It is pertinent to mention here that in the present system the APL card holders have been totally excluded as result whereof there would also be considerable reduction in the population covered under the PDS system. • Similarly the present system necessarily provides for one FPS in every Panchayat and in case the households in any panchayat is more than 800 then additional shop may be opened in that panchayat subject to availability of minimum 400 household for opening of the next FPS so that smooth availability of PDS can be ensured. • Clause 9 (6) of the PDS Control order 2015 issued by the Central Govt. also directs that the State Govt. shall ensure that the number of ration cards attached to a fair price shop are reasonable. <p><i>Fixation of number of fair price shops in urban and rural areas</i> is also the requirement of the Wadhwa Committee report and the National Food Security Act 2013 so also the</p>

		Excellence in Pulmonary Medicine to the in-charge Dean of the Medical College in place of the petitioner. It was apparently removing the petitioner from his substantive post without following the principles of natural justice.	
14.	16/08/2023	<p>The order impugned was apparently an ill-motivated order under the influence being exerted by the respondent No.4, which is clear from a <u>subsequent and simultaneous</u> order making the main complainant Dr. Sanjay Bharty as the Head of Department of the Respiratory Medicine 'Department'. It is submitted that there was no post of 'Head of the Department' in the Respiratory Medicine Unit in the <i>School of Excellence in Pulmonary Medicine</i> as per the staffing pattern duly sanctioned by the State Government appended to the rules.</p> <p><i>*The order being consequential to the main order impugned dated 14/08/2023, doesn't give any cause or locus to the Intervener to continue with the current charge of post, that too when such post does not exist in the set-up of SEPM.</i></p> <p><i>*Erstwhile T.B. & Chest Department has been upgraded as a Super Specialty Department and there is no post like 'Head of the Department' is sanctioned except single post of 'Director-Professor' who is the only head of the broad super specialty department for the purposes of administration of SEPM and NMC inspections.</i></p> <p><i>* It is just that on 01/03/2023 inspections for assessment of MD and DM both the courses were carried out by NMC team and petitioner was busy with the DM courses, Dr. Bharty and respondent no.4 played mischief behind the back of petitioner and projected Dr. Bharty as the HoD on annexure R/6. Later, claim of Dr. Bharty to be declared as the HOD on the basis of such document was duly rejected by the petitioner vide speaking order dated 28/03/2023 followed by order dated 20/05/2023,</i></p>	<p>P/31 Page 141</p> <p>RJ/14 RJ/15</p> <p>&</p>

	<p>State Govt. in respect of the Urban and Rural areas, in the event the FPS earlier run by Women Multipurpose Societies, who have now rendered in-eligible under the present Control order, the said shop shall now be reserved for eligible women societies. Thus the implementation of women empowerment policy is still ensured by the State Govt.</p> <ul style="list-style-type: none"> • Reservation for women is also the requirement of the <i>Wadhwa Committee</i> report and the National Food Security Act 2013 for Women Empowerment at Grass root level. <i>{(2010) 1 MPLJ 229: Ashok Kumar Malpani Vs State of M.P.}</i>. The manner in which the reservation for women is to effected has been provided in Circular dt.29/06/2015.
A-f	<p><i>Submission on Challenge to the appointment of Authorized Agency(for transportation):</i></p> <ol style="list-style-type: none"> (1) The main foundation for removal of lead societies and appointment of the Authorized Agency is the enforcement of the recommendations of the <i>Wadhwa Committee</i> and the National Food Security Act 2013: (2) Section 12 of the National Food Security Act 2013 directs for doorstep delivery of the TDPS outlets and full transparency of records. (3) Section 24 (2) (a) of the National Food Security Act 2013 mandates the State Govt. to organize intra-state allocations for delivery of the allocated foodgrains through their authorized agencies at the door-step of each fair price shop. (4) Section 24 (5) (b) of the <i>National Food Security Act 2013</i> mandates the State Govt. to suitably strengthen capacities of their <i>Food and Civil Supplies Corporations and other designated agencies.</i> (main object is to curb pilferage and diversion of the supplies from the end to end point) There is a specific finding by the <i>Wadhwa Committee</i> that the lead societies indulge in pilferage, diversion and black marketing of the supplies. (5) Under the Control order 2015, the petitioners though cannot be directly engaged by the State Govt. for transportation of Civil Supplies but they are free to participate in the tender process for appointment as the transporters of the Authorized Agency if they choose to, thus there is no prejudice to the transporters / petitioners.

A-e	<ul style="list-style-type: none"> • Similarly the fixation of minimum qualification of the Salesman of the FPS is because they would be required to maintain records online and would also be required to update the same on computers. Thus there is direct nexus with the object sought to be achieved. • The same is also the requirement of the Wadhwa Committee report and the National Food Security Act 2013. • Just because the rules framed by the Cooperative registrar governing the service conditions of the salesman protects their interests, the same cannot be a ground to challenge Clause 10 (2) because as per section 6 of the <i>EC AC 1955</i>, the order framed under the EC Act has an overriding effect.
A-h	<p><i>Submission on Challenge to the Clause 20 (Repeal and Saving):</i> Under the Clause 20 of the <i>Control order 2015</i> none of the rights and obligations of the earlier FPS owners are saved because the intention of the State Govt. is to completely change the present system and bring it in conformity with the <i>National Food Security Act 2013</i> and the recommendations of the <i>Wadhwa Committee</i>.</p>

List of cases/citations:

1. *W.P. (Civil) No.196 / 2001: Peoples Union For Civil Liberties Vs Union Of India & others*
(2011) 14 SCC 331
(2013) 2 SCC 663
2. *Sarkari Sasta Anaj Vikreta Sangh Vs State of M.P. and others:*
AIR 1981 SC 2030
3. *Ashok Kumar Malpani Vs State of M.P.:(2010) 1 MPLJ 229*
4. *Kolhapur Cane sugar Works Ltd. Vs U.O.I. : (2000)2 SCC 536*

Jabalpur
Dated : /09/2015


FOR STATE
[Samdarshi Tiwari, Advocate]

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

Writ Appeal No. 613/2016

Appellants : State of MP & ors.

Vs.

Respondent : Yugal Kishore Sharma.

(FULL BENCH HEARING)

SYNOPSIS

Brief Facts :

- Writ Petition was moved by the petitioner, who was serving as an Weaving Instructor (Anudeshak) in the Weaving Center run by the Department of Women & Child, *inter alia* assailing an order dated 06/03/2009 whereby he was informed his date of superannuation to be 30.06.2009 on attaining age of 60 years.
- It was the main ground that the petitioner imparted 'teaching' in the Weaving Center to 'teach' students in the tailoring and cutting classes. He was serving at Women Tailoring Center, Rewa when he was retired. Thus, he claimed status of a 'teacher' to avail benefit of the enhanced age of superannuation (62 years) in terms of *MP Shaskiya Sevak (Adhivarshiki Ayu) Dwitiya Sanshodhan Adhiniyam, 1998*.
- Writ petition was allowed vide judgment dated 02/01/2013 giving a wide meaning to the term 'educational institutions' referring to such definition giving under the Noise Pollution Regulation & Control (Rules) 2000 so as to include, and also a decision in the case of *Aditanar Educational Institution Vs. Additional Commissioner of Income Tax (AIR 1997 SC 1436)* wherein even a society established for the purpose of running educational college was termed as an educational institution. It was held that all

industrial training institutions and training centres are also the 'educational institutions'. Further, without making any adjudication of word 'teacher', relying on a decision of the erstwhile tribunal in the case of Ku. Chandra Kakker (T.A. No.747/1988) it was held that the instructors are to be treated as teachers.(Page 25)

- In the writ appeal preferred by the State against the order passed in writ petition being W.A. No.682/2013, it is observed that the learned Single Judge has essentially relied on the observations made in a decision of erstwhile M.P. State Administrative Tribunal in T.A. No.747/1988 decided on 14/11/1991 to hold that instructors are treated to be as teachers, whereas, the decision in the case of Mahendra Pal Singh (Supra) was not in the context of amended provision of FR 56 as incorporated vide Dwitiya Sanshodhan Adhiniyam, 1998.
- The matter was remanded with the following observations:-

"However, the learned Single Judge ought to have also examined the other factors specified by the amended provision of the Fundamental Rule 56 as incorporated vide M.P. Shaskiya Sevak (Adhivarshiki-ayu) Dwitiya Sanshodhan Adhiniyam, 1988 (No.27 of 1998) (hereinafter referred to as 'the Adhiniyam' for short). The same postulates that Teacher must be a "Government servant" by whatever designation called and appointed for the purpose of "teaching in Government educational institute". Learned Single Judge no doubt noticed that the decision in the case of Chandra Kakker (supra) does not specifically deal with this additional requirements to fulfill the criteria for application of the Adhiniyam. Nevertheless, the learned Single Judge has not discussed in the judgment under appeal as to whether the appointment of the respondent was in fact as a "Government servant" and more so for the purpose of "teaching in Government Educational Institution". In absence of finding on these factual aspects, it will not be appropriate to conclude that the Adhiniyam has application to the case of the respondent herein.

That being the quintessence of the provision as amended by the above referred Adhiniyam, the only appropriate recourse is to relegate the parties before the learned Single Judge for re-consideration of these aspects. Consequent to the finding to be

recorded on these factual matrix, the learned Single Judge may proceed to answer the relief claimed by the respondent in the main writ petition.

We accordingly set aside the impugned judgment and restore the writ petition to the file to decide afresh by the learned Single Judge on its own merits."

- Learned Single Judge allowed the writ petition *inter alia* relying on a decision in W.A. No.682/2013 rendered by this Hon'ble Court on 27/11/2013 as well as a DB decision in the case of ***Mahendra Pal Singh Vs. State - 1987 MPLJ 500***. It was held that the Women Weaving Centre established by the Women & Child Development Department impart vocational training with an object of attainment of aptitude in the trainees for the purpose of work and therefore, it has the trapping of an institution imparting education. Further, the instructors in such vocational training centres are held to be 'teachers' for the purpose of *Sanshodhan Adhinyam, 1998*.
- Apparently there was no specific adjudication after the remand also in terms of the directions issued in the writ appeal and therefore, the State has again preferred W.A. No.613/2016.

REFERENCE :

Hon'ble Division Bench vide order dated 25/09/2017 while observing that the counsels for both the sides have relied on various judgments of division bench and single bench reflecting divergent views on the issue involves in the present appeal and the same being of a vital importance, the matter was referred to the larger bench to the consider the following issues:-

- (1) *Whether the writ petitioners who are not designated and classified in the cadre of a 'teacher' under relevant Recruitment Rules but, are engaged in teaching or imparting training, can be held to be a 'teacher' for the*

purpose of the age of superannuation under Fundamental Rule 56 ?

- (2) *Whether training centres, nursing centres, vocational training centres and Yoga centres of the State Government can be held to be an 'educational institution' for extending the benefit of age of superannuation to a person imparting training in these institutions, under Fundamental Rule 56 ?*

DECISIONS BY THIS HON'BLE COURT ON THE SUBJECT MATTER:-

1. **1988 MPLJ 196 – Maina Swami Vs. State of M.P. & others (DB)** – Lady Health Visitors Promotee School, Gwalior was held to be 'Medical Education Institution' and the Principal of the school was held to be entitled for the benefit of enhanced age of superannuation.
2. **W.P. No.2289/2003 – Annapurna Prasad Shukla Vs. State of M.P. & others** – Lab Technicians and Assistant Librarians are held to be treated as teachers within the definition of amending provisions.
3. **2003 4 MPHT 484 – Chokhelal Sahu Vs. State of M.P. & others** – Physical Training Instructor (post which was later on re-designated as Sports Officer) in a Government School and he was held to be a 'teacher' in view of a decision of the Apex Court in the case of **P.S. Ram Mohan Rao Vs. A.P. Agricultural University – AIR 1997 SC 3433**.
4. **1987 MPLJ 500 – Mahendra Pal Singh Vs. State of M.P. & others (DB)** – Ship Modeling Instructor employed in NCC Class-III Service was not held to be teacher so as to avail the benefit of Amendment Act. Relying on a decision reported in **1957 (2) All. ER 638 - Chartered Insurance Institute Vs. London Corporation**, it was held that an institution without

any object of advancement of education but merely providing job oriented training, would not be an educational institution.

5. **2007 4 MPHT 147 – S A M Ansari Vs. State of M.P. (SB)** – A Weaving Master employed in the Jail Department was not held to be teacher in as much as 'prisons' as defined under the Prisons Act, 1984 cannot be said to be a place or institution for imparting the education.
6. **(2001) 2 MPHT 373 – Smt. Maya Verma Vs. JNKVV & others** – Lady Extension Teacher under the Extension Services of University, who merely communicate the techniques in farming and also not covered within the definition of 'Teacher of the Vishwavidhyalaya' given in the Statute, was not held to be a teacher.
7. **W.A. No.402/2016 – Ashok Kumar Gupta Vs. State of M.P. & others** – A Block Extension Educator who also discharged duties as a Health Instructor/Teacher in a Health Training Institute, was not found to be fulfilling the criteria laid down in the Amended Rule having not being appointed as a teacher in any Government Educational Institute including Technical or Medical Education Institute.

SUBMISSIONS:-

- 'TEACHER' & 'GOVERNMENT EDUCATIONAL INSTITUTIONS':
 - Only the criteria of imparting training could not amount to 'teaching' and it depends on the object of such training whether it is the advancement of education or merely is of the nature of job oriented exercise, as has been considered by this Hon'ble Court in the case of Mahendra Pal Singh referring to Chartered Insurance Institute (supra).
 - While giving interpretation to the term 'teacher', the concept of common parlance may not be applied, but such interpretation should confine to the context of relevant statutory provision. In the present

case the interpretation should confine only in the context of amended provision of *Adhivashki Ayu Sanshodhan Adhiniyam 1998* pertaining to school education.

- In the statues/legislation prevailing in the State related to school/elementary education as well as the norms laying down qualification of a teacher, specific definition has been provided.
- It is clear from these respective definitions of the word 'teacher' that, a teacher means any member of teaching staff of a school or educational institution who is appointed in a Government Educational Institution or an Institution essentially involved in the field of education and who possess the qualification as per the minimum norms laid down by the Statutory Bodies regulating the teachers training.
- It is clear from the statement of the objects and reasons of the *Sanshodhan Adhiniyam 1998* that, the age of teachers serving in the Government Educational Institutions was enhanced keeping in view the advantage of experience of teachers available to the students as the set up of school education being the essential obligation of the State to meet out Right to Education in a long run, whereas the Weaving Centre running under the Women & Child Development Department was not intended to be kept continued for long as it could not achieve the objects for which it was established and in the changed social scenario. Ultimately, such centres have been closed down by the State vide order dated 01/04/2016.
- Even the Finance Department is of the view that such Weaving Centres are not the educational institutions and the instructors serving therein cannot be treated to be teachers contrary to the objects of the *Sanshodhan Adhiniyam 1998*, which reflects from its letter dated 04/02/2015 addressed to the Administrative Department.
- While remanding the matter, Hon'ble Division Bench in W.A. No.682/2013 specifically directed to examine the aspect that a teacher must be a Government Servant by whatever designation called and as to whether the appointment of the respondent was infact as a

'Government Servant' and more so for the purpose of 'teaching in Government Educational Institutions'.

{ POINTS OF SUBMISSIONS }

	PARTICULARS
<u>1st</u> <u>Point</u>	<p>Definition/Meaning of words:</p> <p>(i) M.P. Jan Shiksha Adhinyam, 2002</p> <p>“Teacher” means any member of teaching staff of school known by any name as approved by the Govt. and duly appointed to teach in that school.</p> <p>“School” means an educational institution imparting, wholly or partly, elementary education.</p> <p>“Elementary Education” means education from Class 1st to Class VIIIth.</p> <p>(ii) The Right of Children to Free and Compulsory Education Act, 2009.</p> <p>“school” means any <i>recognized</i> school imparting elementary education and includes—</p> <p>(i).....</p> <p>(ii).....</p> <p>(iii) Examination Bye-Laws of the Central Board of Secondary Education</p> <p>“School” means a school affiliated to the Central Board of Secondary Education.</p> <p>“Teacher” when used as paper-setter means a professor, Reader, Lecturer, Principal/Vice Principal of the Senior / Secondary School and a Post Graduate Teacher.</p>

(iv) Central Board of Secondary Education Affiliation Bye-Laws.

“Institution” means an educational institution affiliated to the Board.

“Teacher” means a person in the employment of an institution *affiliated with the Board* for teaching purposes.

(v) The National Council for Teacher Education Act, 1993.

“Teacher Education” means programme of education, research or training of persons for equipping them to teach at pre-primary, primary, secondary and senior secondary stages in schools, and includes non-formal education, part-time education, adult education and correspondence education.

“Teacher education qualification” means a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance with the provisions of this Act.

Major Law Lexicon:

(vi) “Education” in general means training up the young in general learning and does not extend to teaching for business or profession.

(vii) “Education” denotes training of the mind, in contradistinction to training in manual skills

(viii) “Educational Institution” means a pre-primary, primary or secondary school owned or managed or recognized by any local authority, State or Central Govt. or any college affiliated to or established or managed by any University established by law.

(ix) The expression **“Educational Institution”** occurring in

	<p>various Articles of the Constitution of India means institutions that impart education from primary level upto post graduate level and includes professional educational institutions. {See: TMA Pai Foundation Vs State of Karnataka:2002 AIR SCW 4957 (para 162-N)}.</p> <p>(x) “Vocation” means a person’s activity out of which he earns his living.</p>
<p><u>2nd</u> <u>Point</u></p>	<p>Details of object and Set-up of training Centers / nature of duties / present status of centers</p>
	<p>Establishment:</p> <p>The training centres opened by the Laghu Udyog Department in the year 1953, were transferred to the department of Panchayat and social justice in the year 1973. After the constitution of the department of Women and Child Development on 15/08/1986, these centers was operational in the said department in the form of Shaskiye Mahila Silaai, Kadhaai, Gudia training center.</p> <p>Objects for setting up such training centers:</p> <p>These centers were run with the following objects</p> <ol style="list-style-type: none"> (1) To make the housewives and less educated women of rural areas self-dependent by giving them training and making them earn their livelihood. (2) To motivate the women for better use of their time, Saving of cloth and, monetary gains. <p>Manner of training and Syllabus:</p> <p>The training was given to the women free of cost and with govt. facilities, the training was spread as yearly course and the syllabus of the course was fixed by the department itself. It was not a regular educational course nor was it recognized from any university/ board and was also not approved or recognized under any rules/ regulation of the department of education on the contrary the</p>

training course was only related to skill development.

The certificate issued to the trainees by such centers was not approved or valid for any public employment.

Decision of Finance Department:

The proposal of the Administrative Department to enhance the age of Retirement of instructors / trainers to 62 years at par with the teachers has been rejected by the Finance Department, Govt. of M.P. vide order dt.04/02/2015 by stating that:

“ Such persons are not discharging the duties of imparting teaching to the students and therefore the proposal of the department is rejected”

Present status of training centers:

The department vide its order dt.01.04.2016 had already taken a decision to close down the training centres of the department.

Manner of initial appointment of petitioners:

The appointment of the writ petitioners is not in accordance with the recruitment rules applicable to such appointment in as much as the bare perusal of the order (dt.13/01/1981, Annex-P/2 in the case of Yugal Kishore) would itself reveal that it is not an appointment on the post of instructor in accordance with **rule 6** of the rules and in fact the writ petitioner working as part time junior instructor has been permitted posting against a vacant post of senior instructor and there is no such mode of recruitment prescribed under the rules.

Similar may be the case of other writ petitioners as well because no document showing the appointment of the writ petitioners is not in accordance with the recruitment rules has been placed on record by them.

**3rd
Point**

Rules and Acts governing the issue:

- (i) The service conditions of the writ petitioners working as (Instructors) at the time of appointment were governed by the **“M.P. Panchayat & Social Welfare Class-III (Executive) Service Recruitment Rules, 1967.**

(hereinafter referred to as Rules)

Rule 6 of the Rules provided for Method of Recruitment, whereas **Rule 8** provided for conditions of eligibility of direct recruitment and educational qualifications etc.

As per **schedule II** appended to the Rules post of **Teacher** is a distinct and different post carrying higher payscale than the post of **Instructor**.

As per **schedule III** appended to the Rules even the educational qualification prescribed for the post of **teacher** is much higher and at par with that of the school education department i.e. A bachelor's Degree in Art, Science, Economics, Domestic Science and Degree or Certificate in teaching. Or A bachelor's Degree in Art, Science, Commerce or Domestic Science and Two year's teaching experience in a recognized institution.

Whereas for the post of **Instructor** the educational qualification prescribed is only [Essential] (1) Higher Secondary or equivalent examination and Diploma/Certificate institution in appropriate trades and [Desirable] (i) One year's experience or imparting training in the appropriate trade. And adequate knowledge of hindi.

Thus there is absolutely no parity between the Teacher and Instructor in the matter of educational qualification, pay scale under the recruitment rule itself and therefore the benefit of higher age of superannuation would not be ipso-facto available to the writ petitioners.

*Moreover the appointment of the writ petitioners is not in accordance with the recruitment rules applicable to such appointment in as much as the bare perusal of the order (dt.13/01/1981, Annex-P/2 in the case of Yugal Kishore) would itself reveal that it is not an appointment on the post of instructor in accordance with **rule 6** of the rules and in fact the writ petitioner working as part time junior instructor has been permitted posting against a vacant post of senior instructor and there is no such mode of recruitment prescribed under the rules.*

Similar may be the case of other writ petitioners as well because no document showing the appointment of the writ petitioners is in accordance with the recruitment rules has been placed on record by them.

(ii) **M.P. Shaskiya Sevak (Adhivarshki Ayu) Dwitiya Sanshodhan** **Adhiniyam, 1998**
(dt.7/08/1998)

Statement of Objects and Reasons- *The age of superannuation of the State Govt. servants has been raised from 58 years to 60 years w.e.f. 31/05/1998.*

2. But the age of Superannuation of the State Govt. teachers has not been raised from 60 to 62 years.

3. Keeping in view the advantage of experience of the teachers available to the students, the age of superannuation of the State Govt. teachers is also proposed to be increased from 60 to 62 years.

4. Hence this bill.

Neither there was any intention of the State Govt. to increase the age of retirement of the instructors working in the women and child development department as is evident from the statement and objects of the amending act itself nor the petitioners are Govt. teachers falling under Amended FR 56 as substituted by Section 2.

Moreover the training centers of the Women and Child Development Department are not the "Govt. Educational Institutions" as provided under the act and even the appointment of the writ petitioners is not in accordance with the recruitment rules applicable to such appointment and therefore the petitioners are not entitled for enhanced age of superannuation at 62 at par with the Govt. teachers.

Even the **Explanation** clause attached to the amended FR 56 should be so read as to harmonise with and clear up ambiguity in the main section and should not be so construed as to widen the ambit of the section. {**Kindly see: Bhita Cooperative Development Vs Bank of Bihar; AIR 1967 SC 389**}

<u>4th</u> <u>Point</u>	<i>Other submissions:</i>
	<p>(i) The respondent is neither an employee of School Education Department, Higher Education Department nor Technical/Medical Education Deptt.</p> <p>(ii) Weaving Centre is neither an educational institution nor a technical or medical educational institution.</p> <p>(iii) Respondent / Centre does not impart any recognized course nor provides and diploma or degree but only gives traing to enhance vocational skills.</p> <p>(iv) Weaving Centre does not has any recognition or affiliation from any board or council, university etc. and does not impart education.</p> <p>(v) No approved syllabus from any recognized authority is followed in weaving centres.</p> <p>(vi) Petitioners are not entitled for any parity with the teachers in the matter of age of superannuation.</p> <p>(vii) Enhancement in age of retirement incurs financial burden on the ex-chequer and therefore there has to be a conscious decision of the State Govt. to enhance the age of retirement of the instructors of the women and child department and without it, by deeming or by legal fiction, the age of retirement of the writ petitioners cannot be enhanced through a judicial order.</p> <p>(viii) It is settled law that plea of violation of Article 14 and 16 is not available in the matters of age of retirement.</p> <p>(ix) No one can as a matter of right claim enhanced age of retirement.</p>
<u>5th</u> <u>Point</u>	<i>Issue not involved in the matters may not be required to be answered by the Full Bench.</i>
	<p>Since none of the petitioners were working in Nursing Centres or Yoga Centres, the relevant data pertaining to set-up and running of such centres is not on record and therefore this Hon'ble Full Bench may not adjudicate upon the said issue.</p> <p><i>(2012) 1 MPLJ 615 – Ruchi Verma Vs. State of M.P. & others.</i></p>

FOR STATE

[Samdarshi Tiwari, Advocate]

**IN THE HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT AT
JABALPUR**

W.A.NO.1854/2018

APPELLANTS

State of M.P. & others.

Vs-

RESPONDENT

Praveen Chandra Choubey.

SYNOPSIS

Important dates & events:-

Sr. No.	Dates	Events	Remarks
1.	06/09/1983	Petitioner was appointed as Assistant Lecturer in the faculty of Printing Technology on adhoc basis.	
2.	21/02/1989	Petitioner was absorbed on the post of Lecturer (Printing) by the department w.e.f. 09/04/1986.	Ann.P/1
3.	November 1989	The State Government adopted the scheme of revision of pay scales and other measures for maintenance of standards in Government aided/Non-Government Polytechnics as prescribed by AICTE. Clause 8.2 exempted condition of qualification in respect of existing staff. # "8.2 Qualification and experience given in Annexure-3 shall be applicable to the teachers recruited afresh. These will, however, not be applicable to existing teachers on their present posts, for getting revised A.I.C.T.E. scales under the Scheme."	Dealt with in the judgment in para 12, 19 & 20. Page 30,37,38,39,40

4.	22/01/2010	<p><i>All India Council for Technical Education (Pay Scales, Service Conditions & Qualification for the Teachers and other Academic Staffs in Technical Institution (Diploma)) Regulations, 2010</i> in exercise of powers conferred under Section 23(1) read with 10(i) & (v) of the <i>AICTE Act, 1987</i> by the All India Council for Technical Education. Specific provision prescribing age of superannuation has been made in these Regulations.</p> <p># “Age of Superannuation: (i) In order to meet the situation arising out of shortage of teachers in Technical Institutions and the consequent vacant positions therein, the age of superannuation for teachers in Technical Institutions has been enhanced to sixty five years, vide the Department of Higher Education letter No.F.No.1-19/2006-U.II dated 23.3.2007, for those involved in class room teaching in order to attract eligible persons to the teaching career and to retain teachers in service for a longer period.”</p>	<p>Regulations – at Page 157</p> <p>Dealt with in the judgment in para 12 & 13.</p> <p>Page 30, 31</p>
5.	19/10/2010	<p>The State Government through Technical Education and Training Department adopted most of the provisions of <i>AICTE Regulations – 2010</i> including that pertaining to age of superannuation. It was clearly stipulated that the age of retirement of the teachers engaged in classroom teaching shall be enhanced from 62 years to 65 years and such benefit shall be available to only those teachers who are in service as on the date of issuance of the order i.e. 19/10/2010.</p>	<p>Annexure-IA/1 with I.A. No. 4694/2019</p>
6.	29/10/2012	<p>The State Government made specific submission before this Hon'ble Court about adoption of</p>	

	<p>AICTE Regulations pertaining to age of superannuation vide circular dated 19/10/2010, in Writ Appeal No.1087/2012 and Writ Appeal No.1088/2012 (commonly decided on 29/10/2012), considering the same it was held that:-</p> <p><i>"In this case, it was not disputed that the appellants were superannuated on 31/08/2010. The Regulations was notified on 05/03/2010 by the All India Council for Technical Education (AICTE). The State Government have given effect to the aforesaid notification, in particularly in respect of the age of superannuation, vide order dated 19/10/2010 (Annexure R-1) and the aforesaid Regulation was made applicable to all the Teachers who were working on the date of issuance of order i.e. on 19/10/2010."</i></p> <p>Further,</p> <p><i>"Apart from this, the Regulation of the AICTE was not applicable immediately on notification of Gazette on 05/03/2010, but it was to be extended by the State Government in the Polytechnic Institutions of the State Government by an order and until and unless such Regulation is extended to the Polytechnic Institutions of the State Government, such benefit was not available to the employees of such institution coming under the State. It is not in dispute that the appellants were working in Government Polytechnic Colleges in the State of Madhya Pradesh and such benefit was available to the appellants only after extending such benefit specifically of the Regulation to the employees."</i></p>	
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7.	16/07/2015	<p>The State Government reiterated the same stand before this Hon'ble Bench in <i>W.A. No.147/2015 – State of M.P. & others Vs. Shailendra Kumar Bundela</i> with regard to adoption of AICTE Regulations, specially the age of superannuation. As quoted from the judgment dated 16/07/2015:-</p> <p><i>“Shri Yadav, learned counsel appearing for the State Government took us through the provisions of the regulation and argued that the regulation only contemplates enhancement of age of retirement for such persons, who are actually involved in <u>Class Room Teaching</u>. In the present case, as the respondent is only a <u>Technical Assistant</u> and is not involved in <u>Class Room Teaching</u>, he was not entitled for the said benefit. Shri Yadav further points out that in W.A. No.1087-1088/2010, the appellants were actually involved in Class Room Teaching, they were teachers in polytechnic institute and the said judgment would not apply in the present case.”</i></p> <p>It was held thus:-</p> <p><i>“8. If the Regulation of 2010, enhancing the age of superannuation of teachers is analyzed, it is seen that in order to meet the situation of shortage of teachers in technical institute, a specific provision has been made contemplating that for such persons, who are involved in Class Room Teaching in order to attract eligible persons for teaching career and to retain teachers in service for a longer period, the proposal was to enhance the age of superannuation.</i></p> <p><i>9. Even though, in the circular Annexure-P2 dated 14.11.1986, the technical assistant is also classified to be a teacher but this circular</i></p>	
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		<p><i>is of the year 1986 and the Regulation of 2010 and it's adoption by the State Government vide notification Annexure-A4 dated 15th of September, 2010 specifically contemplates that the age of superannuation of teachers are being enhanced looking to the shortage of teachers and it is specifically provided in both the Regulation of 2010 and the circular dated 15th of September, 2010 that the enhancement will be applicable only such persons, <u>who are actually involved in the Class Room Teaching.</u>"</i></p>	
8.	04/01/2019	<p>The fact was brought on record before the Writ Court that by moving an I.A. that the petitioner alone is subjected to discrimination and all the other teachers engaged in the Class Room Teaching in the establishment of Polytechnic are allowed/being allowed to continue upto age of 65 years. A list of such teachers was enclosed and the Writ Court also took note of it and has held such discrimination to be unexplained and illegal. As the I.A. was not placed on record alongwith the writ appeal, the respondent brought it on record vide I.A. No.141/2019.</p>	I.A. No.141/2019

**IN THE HIGH COURT OF MADHYA PRADESH PRINCIPAL
SEAT AT JABALPUR**

W.P.NO. 3472/2015

PETITIONER

Dr Pankaj Kumar Rai and Others

Vs-

RESPONDENTS

Barkatullah University and Others.

W.P.NO. 3472/2015

PETITIONER

Dr Harish Kumar Tiwari and
Others

Vs-

RESPONDENTS

Barkatullah University and Others.

Synopsis

S.No	Dates	Events
1.	16.06.2014	The Executive Committee took a decision to various teaching and non-teaching posts and introduction of new Courses in term of the recommendation under the 12 th Five year Plan of the University Grant Commission.
2.	19.08.2014 21.08.2014	An advertisement was issued pertaining to the filling up of 5 administrative posts on contractual basis. Initial term of contract was 06 months. Another advertisement was issued pertaining to the filling up 30 teaching posts on PURELY TEMPORARY/DEPUTATION basis. Not on contractual basis.

3.	30.09.2014	The Executive Council was held whereby decision has been taken to appointment had been made as mentioned in the advertisement dated 19.08.2014 and 21.08.2014.
4.	30.09.2014	The Petitioners offer of Appointment issued to the petitioners for the period of 1 year, whereby, it was mentioned that the appointments were purely Temporary.
5.	25.02.2015	The Executive Council had taken a decision and terminated the services of the petitioners
6.	02.03.2015	The Services of the petitioners were terminated on the basis of EC Vide order dated 25.02.2015.
7.	05.03.2015	The matter was taken up for hearing and the Hon'ble Court has pleased to grant stay of the decision dt 25.02.2015 and directed to the respondents are restrained from taking any action on the basis of impugned order and the petitioners were allowed to continue. However, the petitioners did not disclose the facts that the Registrar has already been issued the termination orders of the petitioners vide order dated 02.03.2015.
8	23.06.2016	The matter further listed for hearing and the Hon'ble Court has been pleased to observed " <i>In view of the aforesaid, as the matter is required to be decided by the competent authority and as several disputed questions of fact are involved therein which cannot be looked into by this court under Article 226 of the Constitution of India and as the enquiry report has also been submitted in the matter by a Retired High Court Judge, the present petition is sought to be disposed of with a direction to the authorities of the State as well as University</i>

		<p><i>to take a final decision in the matter.</i></p> <p><i>However, at this stage as there is a serious dispute between the parties as to whether the petitioners are still continuing after lapse of one year, the learned counsel for the University seeks time to make a specific averment in that regard on affidavit. In the meanwhile, it is made clear that as the fact that the petitioners continued in service for a period of one year pursuant to the order of their appointment in view of the interim order passed by this court and have rendered their services for a period of one year, the respondent/University is directed to release the salary of the petitioners for a period of one year from the date of appointment, preferably by the next date of hearing.”</i></p>
9	29.07.2016	In Compliance of the order dated 23.06.2016. An affidavit has been filed by the Registrar whereby, it is specifically stated that the appointment of the petitioners are purely temporary and they have not been appointed in vacant and sanctioned post and there is no continuation order in relation to the services of the petitioners.
10.	11.01.2017	Compliance of order dated 23.06.2016 has been made by the University regarding the payment of the petitioners and an amount of Rs 61,15,489/- has been credited to the petitioners account.
11.	05.08.2017	The Vice Chancellor has invoking his Power U/S 15 (4) of the Act 1973 and issued the order pertaining to the services of the petitioners.
12.	05.09.2017	The University has issued an order in relation to the order dated 05.08.2017 by which the said order has been declared beyond jurisdiction and therefore appears as null and void.

Arguments on behalf of University:

1. As per advertisement, appointment was purely temporary and mode of salary was not prescribed. Even it was not discussed, approved and prescribed by the EC in its meeting conducted on 30.09.2014. The petitioners were appointed only for the period for one year, whereas the said post has not ever been sanctioned as per the provision of the Act 1973.
2. There is no formal approval from the State Government as well as University Grant Commission.
3. That the appointments of the petitioners are not in accordance with the provision as prescribe under Section 24(xx) and 24 (xxi) of the *M.P. Vishwavidyalaya Adhiniyam, 1973*, thus no Teaching and Non-Teaching Post can be created by the University without Concurrence of the State Government.
4. Even the UGC Regulations of 2010 do not prescribe any such mode of 'purely temporary' appointment that too, on pay-scale with all remuneration at par with regular teaching posts.
5. On 25.08.2015 The Department of Higher Education had written a letter to Kuladhipati in relation to irregularities in the appointments in the University and to take action U/s 10(1) of the M.P. Vishwavidyalaya Act 1973.
6. On 09.10.2015 the Kuladhipati had constituted an enquiry committee under Section 14(3) of the Act 1973.
7. That, there is no formal or executive order has ever been issued by the University with regard to continuance of the services of the petitioners beyond one year.

8. That, on 23.06.2016 the Hon'ble Court has sought to be disposed of the present petition with a direction to the authorities of the State as well as University on the basis that the enquiry has already been pending before the Hon'ble Chancellor in relation to the appointments of the petitioners.
9. That, matter pending with the Kuladhipati essentially pertains to fixing the responsibility on the officers, who facilitated such illegal appointments, whereas appointments of the petitioners are already terminated being contrary to law.
10. That salary of the contract period has already been paid on 11.01.2017.
11. That, there is no formal relation between the petitioners and the University after the period of one year.

Legal position:

A. Petitioners were initially appointed purely on temporary basis following an opaque process of selection contrary to provisions of *MP Vishwavidyalaya Adhinyam, 1973* as well as UGC guidelines. Their appointments were terminated by the University on 22.02.2015. Subsequent grant of regular pay-scale in absence of substantive appointment under undue favour of the then Vice Chancellor, was per se illegal. Such appointment, grant of pay scale and continuation of service does not withstand judicial scrutiny.

Judgments on the point are :

1. *Secretary, State of Karnataka Vs Umadevi : (2006) 4 SCC 1*
2. *Mansukhlal Saraf Vs Arun Kumar Tiwari & ors.: (DB) decided on 06.08.2015 in MP No.198/199.*

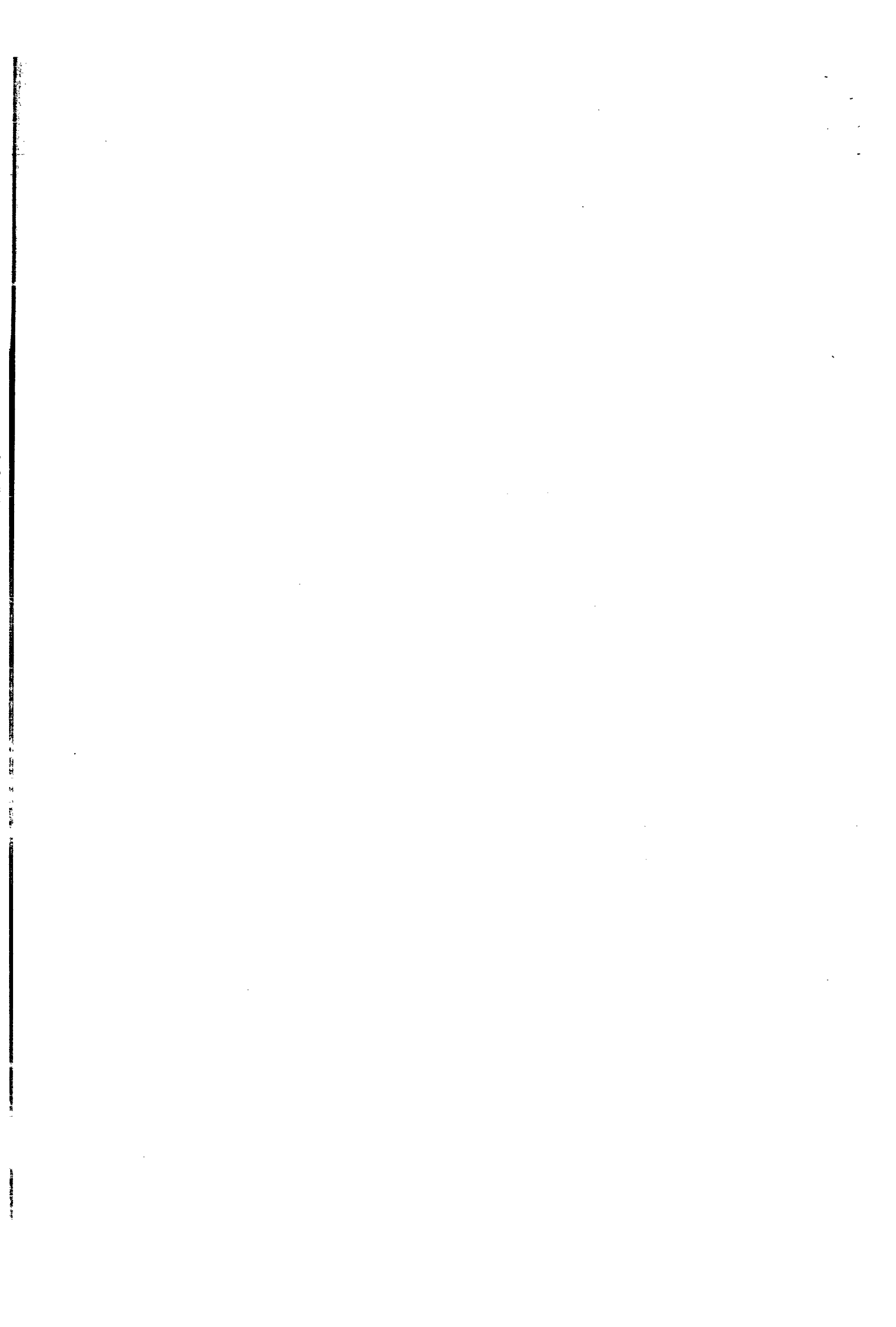
3. *Judgement dated 28.08.18 in WP No. 2458/2017 (DB1) of this Hon'ble Court.*

B. Term of appointment was not even contractual but 'purely temporary' of one year and after expiry on such term, it was never extended nor could it have been extended. Even it cannot be extended by way of issuance of writ. Thus, infact the petitioners have no cause to assail under present writ petition, except academic issue and entire petition has infact, become infructuous. Also petitioners are stopped to claim any benefit, like further extension, absorption etc. even beyond the term of so called appointment.

Judgments on the point are :

1. *Secretary, State of Karnataka Vs Umadevi : (2006) 4 SCC 1 Para 43,47*
2. *Director, Institute of Management Developement UP Vs. Smt Pushpa Shrivastava : (1992)4 SCC 33, para 20*
3. *Vidyavardhka Sangh & anr Vs. YD Deshpande : (2006)12SCC482, para 4*
4. *GRIDGO Limited & anr Vs. Shri Sadananda Doloi : (2011)15 SCC16 para 27,28*
5. Even if it is assumed that several posts were 'created' by the University out of UGC 12th Five year plan and funding out of UGC grant was available till the year 2017-18, such creation of post of *non est* for the prior sanction by the State and presently no such post is available. Further, 'creation' of posts in the Universities as suggested by the UGS, refers to 'creation' in a valid manner in accordance with law. UGC funds seize to be incurred if creation of posts is not in accordance with law. Petitioners cannot claim negative equity.


COUNSEL FOR RESPONDENT /UNIVERSITY
[Samdarshi Tiwari, Advocate]



IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

W.P. No.10239/2013

PETITIONER : CREDAI JABALPUR BUILDERS ASSO.

Versus

RESPONDENTS : CENTRAL VALUATION BOARD & RS.

SYNOPSIS

(On behalf of respondents)

1. Reliefs claimed :

- (i). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction declaring the impugned Rule 3(2)(b) of Guideline Rules 2000 as *ultra vires* to Section 47-A , 75 and other associated provisions of Stamp Act 1899 and the MP Rules of 1975 and strike down the same being unconstitutional and unforceable under law.
- (ii). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction quashing the impugned clauses constituting the subject matter of the present petition relating to agriculture land contained in various Schedules to the Market Value Guidelines for 2013-14 and passing appropriate orders/directions in relation thereof.
- (iv). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction quashing the impugned clauses constituting the subject matter of the present petition relating to agriculture land contained in various Schedules to the Market Value Guidelines for 2014-15 and passing appropriate orders/directions in relation thereof.
- (v). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction quashing the impugned clauses constituting the subject matter of the present petition relating to agriculture land contained in various Schedules to the Market Value Guidelines for 2015-16 and passing appropriate orders/directions in relation thereof.

2. Relevant legal provisions:

List-I (Union List) 7th Schedule of Constitution of India-

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

W.P. No.11039/2013

PETITIONER : RAMPRASAD & ANR.

Versus

RESPONDENTS : CENTRAL VALUATION BOARD & ORS.

LIST OF CASES

S.No.	Citation & title
1.	Himalaya House Co. Ltd. Bombay v. Chief Controlling Revenue: 1972 AIR 899
2.	Bala Prasad And Anr. v. The State Of Madhya Pradesh & ors : 1997 (2) MPLJ 636
3.	Birbal v. Director Consolidation Buland Shahar: 1989 ALJ 673
4.	Chamkaur Singh v. State of Punjab: AIR 1991 P & H 28
5.	Vasireddi Bharata Rao And Anr. vs Revenue Divisional Officer : 1992 (1) ALT 591
6.	Jawajee Nagnatham vs Revenue Divisional Officer: (1994) 4 SCC 595
7.	Hamdard Dawakhana (Wakf) Lal vs Union Of India : 1960 AIR 554
8.	Sardar Indar Singh v. State of Rajasthan: 1957 AIR 510
9.	Kaka Singh v. Additional Collector and District Magistrate (F & R): AIR 1986 All 107
10.	Smt. Ramkishori Gupta vs The State Of Madhya Pradesh: AIR 1988 MP 145

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

W.P. No.11039/2013

PETITIONER : RAMPRASAD & ANR.

Versus

RESPONDENTS : CENTRAL VALUATION BOARD &
ORS.

SYNOPSIS

(On behalf of respondents)

3. **Reliefs claimed :**

- (i). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction enforceable under law.
- (ii). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction quashing the impugned clauses constituting the subject matter of the present petition relating to agriculture land contained in various Schedules to the Market Value Guidelines for 2013-14 and passing appropriate orders/directions in relation thereof.
- (iv). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction quashing the impugned clauses constituting the subject matter of the present petition relating to agriculture land contained in various Schedules to the Market Value Guidelines for 2014-15 and passing appropriate orders/directions in relation thereof.
- (v). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction quashing the impugned clauses constituting the subject matter of the present petition relating to agriculture land contained in various Schedules to the Market Value Guidelines for 2015-16 and passing appropriate orders/directions in relation thereof.
- (iii). Any other relief which this Hon'ble Court deems just and proper in the facts and circumstances of the case may also be granted to the petitioner.

4. **Relevant legal provisions:**

List-I (Union List) 7th Schedule of Constitution of India-

Entry 91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

W.P. No.11039/2013

PETITIONER : RAMPRASAD & ANR.

Versus

ORS. RESPONDENTS : CENTRAL VALUATION BOARD &

SYNOPSIS

(On behalf of respondents)

3. **Reliefs claimed :**

- (i). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction which is enforceable under law.
- (ii). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction quashing the impugned clauses constituting the subject matter of the present petition relating to agriculture land contained in various Schedules to the Market Value Guidelines for 2013-14 and passing appropriate orders/directions in relation thereof.
- (iv). That, this Hon'ble Court be pleased to issue any appropriate writ/order/direction quashing the impugned clauses constituting the subject matter of the present petition relating to agriculture land contained in various Schedules to the Market Value Guidelines for 2014-15 and passing appropriate orders/directions in relation thereof.
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List-II (State List)-

Entry 63. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

List-III (Concurrent List)-

Entry 44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

Indian Stamp Act, 1899 – Section 2 : Definitions

(10) "**Conveyance**" includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule I;

(11) "**Duly stamped**", as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with law for time being in force in ³[India];

Section 3. Instruments chargeable with duty (with MP amendment)- Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefor, respectively, that is to say-

(a) every instrument mentioned in that Schedule which, not having been previously executed by any person, is executed in ³[India] on or after the first day of July, 1899;

(b) & (c)

Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (a), clause (c) of this section or in schedule I, the amount indicated in schedule, be the duty chargeable on the instruments mentioned in clauses (aa) and (bb) of this proviso, as the proper duty thereof, respectively,

(aa) every instrument, mentioned in schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed in Madhya Pradesh on or after the commencement of the Central Provinces and Berar Indian Stamp (Amendment) Act, 1939; and

(bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed out of Madhya Pradesh on or after the commencement of the Central Provinces and Berar Indian Stamp (Amendment) Act, 1939 and relates to any property situated or to any

matter or thing done or to be done, in Madhya Pradesh and is received in Madhya Pradesh.

Provided further that no duty shall be chargeable in respect of -

(1) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for the sale, transfer or other disposition, either absolutely, or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894 or under Act 19 of 1838, or the Indian Registration of Ships Act, 1841 as amended by subsequent Acts.

Schedule 1-A (Applicable in Madhya Pradesh)

Stamp Duty On Instruments [see Section 3] (as stood amended up to date)

Article 25: Conveyance – Not being a transfer charged or exempted under number 6 (*Agreement of memorandum of agreement*)

Five percent of the market value of the property which is the subject matter of conveyance or the amount of consideration set forth therein, whichever is higher.

Provided that-(a) to (g)

Explanation : For the purpose of this article market value of any property which is subject matter of conveyance executed by or on behalf of the Central Government or the State Government, shall be the value shown in the instrument.

Section 27. Facts affecting duty to be set forth in instrument –

(1) The consideration, if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

(2) In the case of instrument relating to immovable property chargeable with an ad valorem duty on the market value of the property, and not on the value set forth, the instrument shall fully and truly set-forth the annual land revenue in the case of revenue paying land, the annual rental or gross assets, if any, in the case of other immovable property, the local rates, municipal or other taxes, if any, to which such property may be subject, and any other particulars which may be prescribed by rules made under this Act.]

Section 47-A : Instruments undervalued how to be dealt with. –

(1) If the Registering Officer appointed under the Registration Act, 1908 (No. XVI of 1908), while registering any instrument finds that the market value of any property which is the subject matter of such instrument has

been set forth less than the minimum value determined in accordance with any rules under this Act, he shall **before** registering such instrument refer the same to the Collector for the determination of the market value of such property and the proper duty payable thereon.

(1-A) Where the market value as set forth in the instrument is not less than the minimum value determined in accordance with any rules under this Act, and the Registering Officer has reason to believe that the market value has not been truly set forth in the instrument, **he shall register** such instrument and thereafter refer the same to the Collector for determination of market value of such property and proper duty payable thereon.]

(2) On receipt of a reference under-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner, as may be prescribed, determine the market value of the property which is the subject matter of such instrument and the duty as aforesaid. The difference, if any, in the amount of duty shall be payable by the person liable to pay the duty.

(3) The Collector may suo-motu, within five years from the date of registration of any instrument not already referred to him under sub-section (1), call for and examine the instrument for the purposes of satisfying himself as to the correctness of the market value of the property which is the subject matter of any such instrument and the duty payable thereon and if after such examination, he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty :

Provided that nothing in this sub-section shall apply to any instrument registered prior to the date of the commencement of the *Indian Stamp (Madhya Pradesh Amendment) Act, 1975.*

(3-A) For the purpose of inquires under this Section, the Collector shall have the power to summon and enforce the attendance of witnesses including the parties to the instrument, or any of them and to compel the production of documents by the same means and so far as may be in the same manner, as is provided in the case of Civil Court under the Code of Civil Procedure, 1908 (Central Act No. V of 1908).]

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may, in the prescribed manner appeal against such order to the Commissioner who may either himself decide the appeal or transfer it to the Additional Commissioner of the Division.]

(5) Any person aggrieved by an order passed in appeal under sub-section (4) may in the prescribed manner appeal against such order to the Chief Controlling Revenue-authority, Madhya Pradesh.

(6) Every first and second appeal shall be filed within thirty days from the date of the communication of the order against which the appeal is filed, alongwith a certified copy of the order to which objection is made and shall be presented and verified in such manner as may be prescribed :

Provided that in computing the period aforesaid, the time requisite for obtaining a copy of the order appealed against shall be excluded.

(7) The appellate authority shall follow such procedure as may be prescribed :

Provided that no order shall be passed without affording opportunity of being heard to the appellant.

(8) The order passed in second appeal or, where no second appeal is preferred the order passed in first appeal shall be final and subject to orders passed in first or second appeal, as the case may be, the order passed by the Collector under sub-section (2) or sub-section (3) shall be final and shall not be called into question in any civil court or before any other authority whatsoever.

Explanation - For the purpose of this Act, -

(i) market value of any property other than the property which is the subject matter of conveyance by or on behalf of the central Government or the State Government or any authority or body incorporated by or under any law for the time being in force, shall be estimated to be the price which in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched or fetch if sold in the market on the date of execution of instrument

(ii) market value of any property which is subject matter of conveyance by or on behalf of the Central Government or the State Government or any authority or body incorporated by or under any law, for the time being in force shall be the value shown in the instrument.]

Section 75. Power to make rules generally to carry out Act-

The State Government may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Section 76. Publication of rules-

(1) All rules made under this Act shall be published in the official Gazette.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

Section 76-A. Delegation of certain powers-

The State Government may, by notification in the official Gazettee delegate-

(a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority; and

(b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1), (2), 56 (1) and 70 (2) to such subordinate Revenue authority as may be specified in the notification.

5. Legislative history of Section 47-A, as it stands today:-

Object underlying section 47-A is to neutralize the effect of undervaluation of the immovable property conveyed under an instrument sought to be registered. The scheme of section 47-A is to deal with cases where private parties deliberately undervalue the property with a view to defer and defraud the revenue. The purpose of this section is only to avoid evasion of stamp duty. Prior to year 1975 (when section 47-A was introduced by the MP Act No.8 of 1975), the registering authority had to register the instrument bearing transaction of immovable properties on the basis of the value agreed upon or set forth by the parties in the instrument and he had no power even to refer the document to the Collector in cases of undervaluation.

Section 47-A filled the lacuna which was observed by the Apex Court in the case of *Himalaya House Co. Ltd. Bombay vs Chief Controlling Revenue (#1)*: 1972 AIR 899, thus;

"...It was urged that in view of section 27 of the Stamp Act, it was permissible for the Revenue to look into the terms and conditions of the agreements entered into by Uttamchand with the various persons to whom he had assigned flats, offices and shops, particularly in view of the fact that the impounded document makes reference to those agreements. We are not able to accept that contention. Section 27 prescribes that "The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable shall be fully and truly set forth therein." It is true that in view of this provision, the parties to a document are required to set forth in the document fully and truly the consideration (if any) and all other facts and circumstances affecting the chargeability of that document with the duty or the amount of the duty with which it is chargeable. But a failure to comply with the requirements of that section is merely punishable under section 64 of the Stamp Act. No provision in the Stamp Act empowers the Revenue to make an independent inquiry of the value of the property conveyed for determining the duty chargeable. Article 23 is the Article that governs the charging of Stamp duty on "conveyance". That Article to the extent relevant for our present purpose reads :

"23. *Conveyance* (as defined by section 2(10) not being a transfer charge or exempted under section 52) Where the amount or value of the consideration for such conveyance as set forth therein....."

This Article has come up for consideration before various High Courts on a number of occasions. In *Ramen Chetty v. Mohamed Ghouse* the Calcutta High Court held that in determining whether a document is sufficiently stamped for the purpose of deciding upon its admissibility in evidence, the document itself as it stands, and not any collateral circumstances which may be shown in evidence must be looked at. In *Sakharam Shankar and Others v. Ramchandra Babu ohire*, it was held that in determining the question whether a particular document is sufficiently stamped, the Court should look at the instrument as it stands. A Full Bench of the Allahabad High Court in the matter of

Muhammad Muzaffar Ali held that if in a deed of gift the value of the property dealt with is not set forth, the deed does not require any stamp, and it is not within the competence of the Collector to have the said property valued in order to assess the duty payable. If, however, the value of the property is intentionally omitted with a view to defraud the Revenue, a prosecution will lie under section 64 of the Stamp Act. A Division Bench of the Patna High Court in *Sri Sitaram Ramalia and Another v. State of Bihar* held that the Collector had no power under section 40 of the Stamp Act to embark upon an inquiry with regard to the market value of the properties covered by the document and require the payment of further stamp duty in accordance with his finding as to valuation and, therefore, that the impugned orders of the Collector, Commissioner and the Board were *ultra vires* and were liable to be set aside under Article 227 of the Constitution. Therein the Court was considering the scope of section 58 of the Stamp Act which requires that an instrument of settlement should be stamped with the same duty as a bond "for a sum equal to the amount or value of the property settled as set forth in such settlement." The Court observed that the words 'as set forth in the settlement' in the section refer back to the word "value" and not to the words "property settled". Recently the same view was taken by the Andhra Pradesh High Court in *Bharpet Mohammad Hussain Sahib and Another v. District Registrar, Kurnool*. No decision taking a contrary view was brought to our notice. The question arising for decision in this case is settled by stare decision. We are entirely in agreement with the view expressed in those decisions. Even if we had been inclined to place a different interpretation of Article 23, we would have hesitated to do so in view of the long line of decisions to some of which we have already made reference. The Legislature may have had good reasons for not empowering the Revenue to make an independent inquiry as regards the valuation of the right sought to be assigned..."

Section 47-A (1), as was brought to statute book vide MP Act No.8 of 1975 w.e.f. 15.05.1975, read as-

"47-A. Instruments under-valued how to be dealt with.-- (1) If the registering officer appointing under the Registration Act, 1908 (No. 16 of 1908) while registering any instrument has reason to believe that the market value of the property which is the subject matter of such instrument, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of market value of such property and the proper duty payable thereon.

(2) On receipt of a reference under Sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner, as may be prescribed, determine the market value of the property which is the subject matter of such instrument and the duty as aforesaid. The difference, if any, in

~~the amount of duty shall be payable by the person liable to pay the duty.~~

(3) The Collector may suo motu, within five years from the date of registration of any instrument not already referred to him under subsection (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of any such instrument and the duty payable thereon and if after such examination, he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in Sub-section (2). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty;

Provided that nothing in this sub-section shall apply to any instrument registered prior to the date of the commencement of the Indian Stamp (Madhya Pradesh Amendment) Act, 1975.

(4) Any person aggrieved by an order of the Collector under Sub-section (2) or Sub-section (3) may, in the prescribed manner, appeal against such order to the Commissioner who may either himself decide the appeal or transfer it to the Additional Commissioner of the Division.

(5) Any person aggrieved by an order passed in appeal under Sub-section (4) may in the prescribed manner appeal against such order to the Chief Controlling Revenue Authority, Madhya Pradesh.

(6) Every first and second appeal shall be filed within thirty days from the date of the communication of the order against which the appeal is filed, along with a certified copy of the order to which objection is made and shall be presented and verified and in such manner as may be prescribed:

Provided that in computing the period aforesaid, the time requisite for obtaining a copy of the order appealed against shall be excluded.

(7) The appellate authority shall follow such procedure as may be prescribed ;

Provided that no order shall be passed without affording opportunity of being heard to the appellant.

(8) The order passed in second appeal or, where no second appeal is preferred the order passed in first appeal shall be final and subject to orders passed in first or second appeal, as the case may be, the order passed by the Collector under Sub-section (2) or Sub-section (3) shall be final and shall not be called into question in any civil court or before any other authority whatsoever."

With a view to implement the provision under Section 47-A, Rules were framed entitled -- "*M.P. Prevention of undervaluation of Instruments Rules, 1975*" (hereafter referred as the 'Rules of 1975') and procedure on receipt of reference of a proposal to take action suo motu under Section 47-A was laid down. The principles for determination of the market value were laid down in Rule 5 of the said Rules.

6. Even the provision giving power to the registering authority, as inserted by section 47-A, was later on proved to be ineffective to check evasion of stamp duty and became instrumental in misuse of discretion by the registering authorities because there was no uniformity in evaluating 'true' value of property in absence of norms or guidelines. Rules of 1975 were meant only to facilitate Collector for determining the market value of the property which is the subject matter of such instrument and the duty. Although, Guidelines in the form of basic valuation register was made available to the registering authorities but it had not statutory force and normally it was revised casually without proper research or deliberation mostly by the Collectors. In order to clothe the guidelines with statutory recognition, amended the Rules in exercise of the powers conferred by Section 47-A read with Section 75 of the Stamp Act and inserted Rule 3-A after Rule 3 in the *M. P. Prevantion of under valuation of Instrument Rules, 1975*, in the following form :-

"3-A. Annual statement of rates of immovable property to be issued by the Collector-- Every District Collector shall annually supply to the Sub-Registrar, a copy of the statement showing average rates of lands and buildings situated in every Tahsil, Corporation or Local body of his district.

Every Registering Officer shall cause a copy of the above statement to be affixed outside the Registration Office.

Every Registering Officer shall, when the instrument is produced before him for registration, verify in each case the market value of land and buildings etc. as the case may be, from the above statement and if he finds that the market value as stated in the instrument is less than the minimum value, prescribed by the statement, he shall refer the same to the Collector for determination of the actual market value of the property which is the subject matter of the instrument and the proper duty payable thereon.

Provided that where the market value has been stated in accordance with or more than that prescribed in the statement issued by the Collector but the registering officer has reason to believe that the correct valuation of the immovable property cannot be arrived at without having recourse to local enquiry or extraneous evidence, he may after registering such instrument, refer the same to the Collector for determination of the market value for the instrument and the proper duty payable thereon."

7. Validity of Rule 3-A was however questioned before this Hon'ble Court and it was held to be *ultra vires* the power granted by Section 75 of the Stamp Act and cannot stand together with Section 47-A thereof, in case of *Bala Prasad And Anr. vs The State Of Madhya Pradesh & ors : 1997 (2) MPLJ 636 (#2)*. It is held that the Registering Officer is a statutory functionary under the Act and his function cannot be taken away, abrogated or curtailed by a subordinate legislation.
8. After insertion of section 47-A, the issue of providing uniform guidelines to the registering authorities to regulate their discretion in the interest of revenue and to put a check on possibility of corruption, became very problematic for the State Governments. It was for the reason that there was no legislative competence with the State Governments to frame norms or guidelines to evolve some authentic and uniform mechanism to determine the basic or minimum value of the property by the registering authorities in different localities in a particular district, even by using rule making power provided under Section 75 in absence of authority to legislate on this issue prescribed in the Principle Act itself. In various High Courts this issue was cropped up for adjudication, including our's, and unanimously it was held that the Registering Officer is a statutory functionary under the Act and his function cannot be taken away, abrogated or curtailed by a subordinate legislation. For example,

A decision of Hon'ble Andhra Pradesh High Court reported in *Birbal v. Director Consolidation Buland Shahar, 1989 ALJ 673(#3)*, laid down that the Basic Valuation Register for levy of stamp duty for registration of an instrument could not form any basis to determine the market value in absence of legislative sanction.

In *Chamkaur Singh v. State of Punjab, AIR 1991 P & H 28(#4)*, where the guidelines laying down the minimum prices were challenged, their Lordships held that such guidelines laying down prices of different kinds of qualities of land on the basis of their situation or location for the purpose of registration of instruments relating to transferring of any property, were violative of Section 47-A as the guidelines had no legislative sanction and could not have been issued for controlling the quasi-judicial decision of a functionary or authority under a particular statute.

In *Vasireddi Bharata Rao And Anr. vs Revenue Divisional Officer : 1992 (1) ALT 591(#5)*, Hon'ble AP High Court considered the question and held that the government has unilaterally fixed the valuation of the lands, the Basic Valuation Register had no statutory foundation and therefore it does not bind the parties. Neither the Registrar nor the vendor is bound by it. The market value of the land for proper stamp duty has to be determined as per the law under Section 47A itself. Commenting on the Basic Value Register it was observed that it is not in dispute that it has no statutory sanction behind it. Neither the Stamp Act nor any other provision of law

empowers the Government to prepare such a register. Moreover the register was prepared on the basis of its own enquiries by Government. The value stated in the Basic Value Register, lacking any statutory sanction, cannot bind the registering officer.

Hon'ble Supreme Court in *Jawajee Nagnatham vs Revenue Divisional Officer: (1994) 4 SCC 595(#6)*, dealt with the question, whether the Basic Valuation Register would form foundation to determine the market value. The Indian Stamp Act, 1899 provides the power to prescribe stamp duty on instruments, etc. Entry 44 of List III, Concurrent List of the Seventh Schedule read with Article 254 of the Constitution empowers the State Legislature to amend the Indian Stamp Act, 1899. In exercise thereof all the State Legislatures including the legislature of Andhra Pradesh amended the Act and enacted Section 47-A empowering the registering officer to levy Stamp Duty on instruments of conveyance, etc., if the Registering Officer has reason to believe that the market value of the property, covered by the conveyance, exchange, gift, release of right or settlement, has not been truly set forth in the instrument, he may refuse registering such instrument and refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon. On receipt of such opinion, he may call upon the vendor as per the Rules prescribed, to pay the additional duty thereon. If the vendor is dissatisfied, he has been given the right to file an appeal and further getting reference made to the High Court for decision in that behalf. Section 47A would thus clearly show that the exercise of the power thereunder is with reference to a particular land covered by the instrument brought for registration. When he has reasons to believe it to be undervalued, he should get verified whether the market value was truly reflected in the instrument for the purpose of stamp duty; the Collector on reference could determine the same on the basis of the prevailing market value. Section 47A conferred no express power to the government to determine the market value of the lands prevailing in a particular area, village, block, District or the region and to maintain Basic Valuation Register for levy of stamp duty for Registration of an instrument, etc. No other statutory provision or rule having statutory force has been brought to our notice in support thereof.

9. In order to remove such anomalous situation and make the operation of Section 47-A more effective, an amendment vide Indian Stamp (MP Amendment) Act, 2000 was brought incorporating a clear provision in sub-section (1) itself that for the purpose of finding that the market value of any property has been set forth in the instrument presented before the registering authority, there has to be a benchmark of 'minimum value' to be determined in accordance with the rules framed under the Act. On a bare comparison of pre amended and post amended section 47-A, difference and legislative intent can be clearly perceived. Infact, the object behind framing Rule 3-A, which was struck down by this Hon'ble Court for the want of legislative

competence, has been achieved by the amendment of 2000 i.e. enabling the operation of section 47-A effectively.

10. Section 75 enable the State Government to make rules to carry out generally the purposes of this Act and after amendment in Section 47-A itself authorizing the Govt. to frame the Rules to determine 'minimum value', there was no legal embargo in framing special rules in this regard. Thus, argument of the petitioner that framing of any such rules would fall within the purview of 'delegated legislation' is quite misplaced and misconceived. At best it can be classified as 'conditional delegation'. Exercising power to frame rules and to authorize an expert body to determine uniform 'minimum value' of properties in a particular district is a case of conditional legislation and not the exercise of delegated legislative power.

Hon'ble Apex Court appreciated the theory of 'delegated legislation' and 'conditional legislation' in *Hamdard Dawakhana (Wakf) Lal vs Union Of India : 1960 AIR 554 (#7)*, as-

The distinction between conditional legislation and delegated legislation is this that in the former the delegate's power is that of determining when a legislative declared rule of conduct shall become effective and the later involves delegation of rule making power which constitutionally may be exercised by the administrative agent. This means that the legislature having laid down the broad principles of its policy in the legislation can then leave the details to be supplied by the administrative authority. In other words by delegated legislation the delegate completes the legislation by supplying details within the limits prescribed by the statute and in the case of conditional legislation the power of legislation is exercised by the legislature conditionally leaving to the discretion of an external authority the time and manner of carrying its legislation into effect as also the determination of the area to which it is to extend; (The Queen v. Burah (2); Russell v. The Queen (3); King-Emperor v. (1) 276 U.S. 394. (2) (1878) 3 App. Cas. 889. (1882) 7 App. Cas. 829, 835.

In *Sardar Indar Singh v. State of Rajasthan: 1957 AIR 510(#8)*, theory evolved is thus when the delegate is given the power of making rules and regulations in order to fill in the details to carry out and subserve the purposes of the legislation the manner in which the requirements of the statute are to be met and the rights therein created to be enjoyed it is an exercise of delegated legislation. But when the legislation is complete in itself and the legislature has itself made the law and the only function left to the delegate is to apply the law to an area or to determine the time and manner of carrying it into effect, it is conditional legislation.

11. Challenge to Rule 3(2)(b) of the Rules of 2000 is thus, completely misplaced and misconceived. Rules of 2000 framed in exercise of the powers conferred by section 75 read with section 47-A of the Act are although captioned as 'Market value Guidelines Rules' but undisputedly they refers to 'determination minimum value', to meet out the requirement of sub-section (1) and (2) of section 47-A. The mechanism to evolve guidelines is if carefully read out, it would discerned that the guidelines are meant only for the registering authority and not for the Collector of stamps to curtail his quasi-judicial functions to determine 'true' value of the property set forth on the instrument brought before him.

- Definition clause, particularly Rule 2(f) refers only to 'Registering Officer' and nowhere 'the Collector'
- Rule 8 mandates that the Market value Guidelines prepared as per Rule 6 and 7 shall be made available to each Registering Officer by the convener of the Distt. Valuation Committee.
- Rule 13-Transitional Provision, also makes it clear that the Rules of 2000 are framed to supplement the functions of sub-registrars as far as determination of minimum value in districts is concerned.

12. In *Kaka Singh v. Additional Collector and District Magistrate (F & R)*, AIR 1986 All 107(#9) : "14. Section 47-A fills in the lacuna which was found by the Supreme Court in *Himalaya House Co. Ltd. v. Chief Controlling Revenue Authority*: AIR 1972 SC 899, it empowers the Collector to deal with these cases where the parties by arrangement deliberately undervalue the property with a view to defraud the Government of the legitimate revenue by way of stamp duty. It is not correct that the Collector is not empowered to determine on a case being referred to him by the Sub-Registrar under Section 47-A (1), that the market value is in fact less than the minimum value to be determined by Rule 341 and to find on that basis whether the transaction sets forth the market value truly or not. Similarly, the hands and powers of the Collector are not confined to the minimum value given in Rule 341. It can hold it to be more if it is satisfied on the materials brought before him to that effect. Rule 341 had been framed by the legislature only for the limited purpose of providing a guideline, it is not conclusive. That being so, under Sub-section (1) of Section 47-A, if the Registering Officer is satisfied that the market value is less than even the minimum value, he may refer the document to the Collector for determination of the value of such property. This is the only function of Rs. 341. It is neither binding on the person who produces the instrument for registration nor on the State Government."

In *Smt. Ramkishori Gupta vs The State Of Madhya Pradesh*: AIR 1988 MP 145(#10), clear statement was made on behalf of the State Govt. that the hands and powers of the Collector are not confined to the minimum value given in 'lists' prepared bearing minimum values of property.

“..Shri Dixit, learned Deputy Advocate General, however, in this connection made a statement that the list prepared by the State Government was not meant to be treated as conclusive but only laid down the broad guidelines. According to him, the broad guidelines provided therein were to be considered along with other relevant circumstances. In view of the statement made by Shri Dixit, we do not find it necessary to either quash the list which may have been prepared by the State Government or to issue any other direction in regard to that list. We, however, wish to make it clear that while determining the market value of a particular property, the Collector shall follow the principles contained in Section 47-A and Rule 5 referred to above. If any Broad guideline that may be contained in the list prepared by the State Government falls within any of the principles referred to in Section 47-A and Rule 5, the same may be considered but only after disclosing the contents of the list containing guidelines to the person concerned to whom notice under Rule 6 of the rules is contemplated to be issued. The list shall be treated only as providing one of the guidelines and considered as such only and shall in no case be treated as conclusive. In view of the foregoing discussion, we are of the opinion that the impugned provisions incorporated in the Act by M.P. Act No. 8 of 1975 were within the legislative competence of the State of Madhya Pradesh and are not ultra vires.”

For kind consideration.



COUNSEL FOR STATE

[Samdarshi Tiwari, Advocate]

IN THE HIGH COURT OF MADHYA PRADESH,
PRINCIPAL SEAT AT JABALPUR

W. P. No.21963/2023

PETITIONER : Dr. Jitendra Kishore Bhargava.

Versus

RESPONDENTS : State of M.P. & others.

SYNOPSIS

Sr. No.	Date	Events	Annexure/ Remarks
1.	06/10/2015	The petitioner was promoted as Professor in T.B. & Chest under NSCB Medical College, Jabalpur.	P/4 Page 37
2.	29/02/2012	<p>Petitioner was continuously acted as the Head of the Department being the senior most and only Professor in the erstwhile department of TB& Chest</p> <p><i>*Petitioner was continuously acted as the Head of the Department being the senior most and only Professor in the erstwhile department of TB& Chest from March 2012 and later, with the nomenclature of Director-Professor, after up gradation of the Department of TB& Chest into SEPM in the year 2019.</i></p>	P/3 Page 36
2.	26/05/2018	The Cabinet took a conscious decision on 08/05/2018 to upgrade the T.B. & Chest Department/Clinical Unit of NSCB Medical College, Jabalpur to National level 'Centre of Excellence' in Pulmonary Medicine. A dedicated staff consisting of Medical Education cadres was also sanctioned creating 01 post of Professor Director and 01 post of Professor, Pulmonary Medicine with the pay-scale of Rs.37400-67000 + 10000 GP. Other teaching and clinical posts were also created.	P/5 Page 38

3.	31/07/2018	<p>The State Government had convened a high level meeting of Deans of all Government Medical Colleges in the Chairmanship of the Additional Chief Secretary on 31/07/2018. Minutes of the aforesaid meeting were circulated by the Dean of Medical College, Jabalpur, which reflected important decisions for effective execution of the Cabinet decision. Other decisions with regard to budgetary provisions, infrastructure etc., were also taken.</p> <p><i>*The office of the Dean of NSCB Medical College has endorsed these minutes as the mandate of the government for implementation. The Director is given all powers of Dean as the administrative head of the department. These recommendations are acted upon in respect of all the Super specialties established under the Cabinet decision.</i></p>	P/6 Page 40
4.	06/08/2018	<p>The State Government under the approval of the Cabinet had formulated <i>M.P. Super Specialty Hospital Medical Teachers Model Service Rules, 2018</i>, which were circulated vide order dated 06/08/2018, as stood amended on 09/10/2018. Those rules were duly adopted by the Executive Council of the Medical College of Jabalpur. Vide a separate order dated 11/09/2018; the State Government has approved <i>Schedule-I (Medical Teacher Cadre)</i> to be appended to the rules specifying the number of posts, pay and qualifications for respective posts, including the post of the Director of the <i>School of Excellence in Pulmonary Medicine</i>.</p> <p><i>*Erstwhile T.B. & Chest Department has been upgraded as a Super Specialty Department and there is no post like 'Head of the Department' is sanctioned except single post of 'Director-Professor' who is the only head of the broad super specialty department for the purposes of administration of SEPM and NMC inspections.</i></p>	P/8 & P/9 Page 45 & 55 * This set-up is in accordance with Regulation 11.1 of <i>MCI PG Regulations 2000</i> , available at page 27 of intervention IA No. 1107/24 <i>Read with Clause 33 & 39 of NMC PG Assessors Guide 2021-22</i> available with Rejoinder (Doc No. 3005/24) Annexure-RJ/3 page 33.

5.	27/09/2018	<p>Exact details behind the vision of opening various subject-specific Schools of Excellence can be appreciated in the State government order issued for creation of <i>School of Excellence in Eye</i> at MG Medical College Indore. It makes it crystal clear till the School is able to get PG seats on its own. There cannot be two standards for same School of Excellence set up in other Medical colleges, which are governed by the same sets of rules. It is made further clear that director of the school would have the same powers as are given dean and CEO of a medical college.</p> <p><i>*Argument is not available that the minuets of expert Committee of Deans which was convened at the stance of the Government in the chairmanship of Additional Chief Secretary, annexure-P/6, has no essence. Object of the meeting was to ensure implementation of the Cabinet decisions to set up Super specialities with a view to convert them as independent 'Medical Institutions' ad almost all the recommendations are implemented or under implementation with huge expenditure. Respondents are estopped to disown such minuets selectively, which have been acted upon.</i></p>	RJ/7 Page 70
5.	30/04/2019	<p>In a well defined process of selection carried out as per the Rules of 2018, finding the candidature of the petitioner eligible and suitable for the post, he was appointed as the full time substantive Director of the <i>School of Excellence in Pulmonary Medicine</i>.</p>	P/11 Page 78
6.	22/05/2019	<p>The petitioner has tendered his resignation from the post of Professor before joining on the post of the Director on 30/04/2019, which was believed to have been accepted on the same day. Only thereafter, the</p>	P/12 Page 80

		<p>petitioner had joined the post of the Director.</p> <p><i>*Right from the year 2019 till May 2022, when the present incumbent took over current charge of the office of the Dean, the functioning of SEPM was smooth and the administrative efficiency of the petitioner was unquestionable.</i></p>	
7.	26/12/2022 17/05/2023	The petitioner has enforced strict norms to maintain discipline in the Institution as a regular practice, which became reason of annoyance by several subordinates, who have instigated a few PG residents also.	P/16 & P/17 Page 85 & 87
8.	04/08/2023	For showing indiscipline and mismanagement while discharging teaching duties, the petitioner has put several subordinate employees to the notice to show-cause and recommended for disciplinary action against them. The disciplinary authority, i.e. the respondent No.3 after holding due disciplinary proceedings has found Dr. Sanjay Bharti, Professor (Respiratory Medicine) and Dr. Bramhprakash, Associate Professor (Respiratory Medicine) guilty of misconduct and accordingly, vide respective order dated 04/08/2023 appropriate punishment was inflicted upon them.	P/18 & P/19 Page 89 & 91
9.	08/08/2023	<p>The all the intervener tendered their resignation from service w.e.f. the expiry of 30 days and such resignation neither was withdrawn nor was interfered with prior to 08/09/2023 by the Divisional Commissioner.</p> <p><i>*Enclosed with the return of respondents No.3 & 4 at Page 12. Apparently reason for resignation was the punishment inflicted upon two of them.</i></p>	R/1 Page 12
10.	08/08/2023	On account of the complaints made by the interveners, the petitioner personally met respondent No.3 to explain these false complaints, he was suggested to give his	P/26 Page 114

		stand in writing, which the petitioner did by sending his comments.	
11.	11/08/2023	<p>The petitioner was not aware whether a Committee constituted by the Dean was allowed to function by the respondent No.3, but later, the respondent No.3 had constituted a separate committee of 02 administrative members of his office to enquire into the same complaints. It is submitted that the comments furnished by the petitioner to the respondent No.3 was not in the form of any complaint, but it was an exposition called by the respondent No.3 himself.</p> <p><i>*This was an independent Committee and certainly not the 'Empowered Committee', constituted under the Rules and thus, there was no occasion for the petitioner to influence such Committee. Only argument of the respondent no.3 to justify the order impugned that the petitioner being the Secretary of the Empowered Committee could not have been allowed to judge of his own cause is patently baseless and would not withstand judicial scrutiny.</i></p>	P/27 Page 123
12.	11/08/2023	<p>On the same day, petitioner submitted his statement before the Committee in details giving parawise reply to the baseless allegations made in the complaint with documentary evidence.</p> <p><i>*Purpose of constituting such Committee had to be apparently not any step to initiate any action against the petitioner but to verify the complaints with the expositions made by the petitioner in this regard. But unfortunately, the committee was constituted to get a tailor-made report against the petitioner at any cost.</i></p>	Page 117
13.	14/08/2023	<p>Before the aforesaid Committee draws any conclusion by giving reasons to disbelieve the expositions giving by the petitioner and to submit any report the respondent No.3 passed the order impugned handing over charge of the Director of School of</p>	P/28 Page 113

		Excellence in Pulmonary Medicine to the in-charge Dean of the Medical College in place of the petitioner. It was apparently removing the petitioner from his substantive post without following the principles of natural justice.	
14.	16/08/2023	<p>The order impugned was apparently an ill-motivated order under the influence being exerted by the respondent No.4, which is clear from a <u>subsequent and simultaneous</u> order making the main complainant Dr. Sanjay Bharty as the Head of Department of the Respiratory Medicine 'Department'. It is submitted that there was no post of 'Head of the Department' in the Respiratory Medicine Unit in the <i>School of Excellence in Pulmonary Medicine</i> as per the staffing pattern duly sanctioned by the State Government appended to the rules.</p> <p><i>*The order being consequential to the main order impugned dated 14/08/2023, doesn't give any cause or locus to the Intervener to continue with the current charge of post, that too when such post does not exist in the set-up of SEPM.</i></p> <p><i>*Erstwhile T.B. & Chest Department has been upgraded as a Super Specialty Department and there is no post like 'Head of the Department' is sanctioned except single post of 'Director-Professor' who is the only head of the broad super specialty department for the purposes of administration of SEPM and NMC inspections.</i></p> <p><i>* It is just that on 01/03/2023 inspections for assessment of MD and DM both the courses were carried out by NMC team and petitioner was busy with the DM courses, Dr. Bharty and respondent no.4 played mischief behind the back of petitioner and projected Dr. Bharty as the HoD on annexure R/6. Later, claim of Dr. Bharty to be declared as the HOD on the basis of such document was duly rejected by the petitioner vide speaking order dated 28/03/2023 followed by order dated 20/05/2023,</i></p>	<p>P/31 Page 141</p> <p>RJ/14 RJ/15</p> <p>&</p>

On order impugned dated 14/08/2023, annexure-P/28

In *Delhi Transport Corporation., v. D.T.C. Mozdoor Congress (1991)* supp (1) SCC 600 it is held –

"230. There is need to minimise the scope of the arbitrary use of power in all walks of life. It is inadvisable to depend on the good sense of the individuals, however, high placed they may be. It is all the more improper and undesirable to expose the precious rights like the rights of life, liberty and property to the vagaries of the individual whims and fancies. It is true to say that individuals are not and do not become wise, because they occupy high seats of power, and good sense, circumspection and fairness does not go with the posts, however, high they may be. There is only a complainant presumption that those who occupy high posts have a high sense of responsibility. The presumption is neither legal nor rational. History does not support it and reality does warrant, In particular, in a society pledged to uphold the rule of law, it would be both unwise and impolite to leave any aspect of its life to be governed by discretion when it can conveniently and easily be covered by the rule of law."

In the *State of (NCT) of Delhi vs. Sanjeev, (2005) 5 SCC 181* is is propounded that:

"16....One can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground is "illegality", the second "irrationality", and the third "procedural impropriety". These principles were highlighted by Lord Diplock in *Council of Civil Service Unions v. Minister for the Civil Service* (commonly known as *CCSU case*). If the power has been exercised on a non-consideration or non-application of mind to relevant factors, the exercise of power will be regarded as manifestly erroneous. If a power (whether legislative or administrative) is exercised on the basis of facts which do not exist and which are patently erroneous, such exercise of power will stand vitiated."

	<p><i>*The intervener has failed to place any order issued prior to 16/08/2023 issued by the competent authority appointing him as 'Head of the Department' in SEPM.</i></p> <p><i>*He cannot claim current charge of a higher post as a matter of right, that too, when such post does not exist in the set-up of SEPM.</i></p> <p><i>* Regulation 11.1 of the MCI Regulations, 2000 clearly establishes that once a Broad or Super specialities consists of several clinical departments or training units, there shall be one Professor for the main Department and second or subsequent UNIT may be headed by the Associate Professor along with two Asstt. Professors.</i></p> <p><i>* By virtue of his resignation tendered on 08/08/2023, legally he cannot claim his service in the SEPM after expiry of the notice period of 30 days. Resignation subsequently tendered and its revocation b the respondent no.3 is inconsequential.</i></p>	
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JABALPUR
DATED: /03/2024


COUNSEL FOR PETITIONER
[Samdarshi Tiwari, Advocate]

Justice Rajendra Menon
JUDGE
High Court of Madhya Pradesh
JABALPUR



Judges' Enclave,
Bungalow No. A/7,
Behind University Campus,
Pachpedi, JABALPUR - 482 001
Phone: 0761-2604414
0761-2600613

Date :

Dated : 13th December, 2014.

Dear Shri Tiwari

I am extremely thankful to you for your kind cooperation in holding the Lok Adalat today. I will be looking forward for such cooperation in future also.

With warm regards,


(Rajendra Menon)

To,

**SHRI SAMDARSHI TIWARI,
ADVOCATE,
HIGH COURT OF MADHYA PRADESH,
JABALPUR.**

HIGH COURT LEGAL SERVICES COMMITTEE,
JABALPUR

The matter relates to Constitution of the Benches for The National Lok Adalat dated 13.12.2014 (Saturday) at 11.00 A.M

As per direction of Hon'ble Executive Chairman, National Legal Services Authority, New Delhi, a National Lok Adalat is to be organized on Saturday 13.12.2014 in the M.P. High Court, Jabalpur. The following Benches are proposed at Principal Seat, Jabalpur :→

- Bench: I** Hon'ble Justice Shri Rajendra Menon.
Smt. Shahin Fatima, Advocate.
- Bench: II** Hon'ble Justice Shri U.C.Maheshwari.
Shri Aditya Adhikari, Sr. Advocate.
- Bench: III** Hon'ble Justice Shri R.S.Jha.
Shri P.R. Bhave, Sr. Advocate.
- Bench: IV** Hon'ble Justice Shri J.K. Maheshwari.
Smt. Divyakirti Bohre, Advocate.
- Bench: V** Hon'ble Justice Shri Sanjay Yadav.
Miss Shraddha Dubey, Advocate.
- Bench: VI** Hon'ble Justice Shri Alok Aradhe.
Shri Samdarshi Tiwari, Advocate.
- Bench: VII** Hon'ble Justice Shri N.K.Gupta.
Shri Sanjay Agrawal, Advocate.
- Bench: VIII** Hon'ble Justice Shri K.K.Trivedi.
Shri K.L. Jatav, Advocate.

- Bench: IX** Hon'ble Justice Shri Subhash Kakade.
Shri Vivekanand Awasthi, Advocate.
- Bench: X** Hon'ble Justice Shri M.K. Mudgal.
Shri Uttam Maheshwari, Advocate.
- Bench: XI** Hon'ble Justice Miss Vandana Kasrekar.
Smt. Gulab K. Patel, Advocate.
- Bench: XII** Hon'ble Justice Shri Rajendra Mahajan.
Shri B.P. Sharma, Advocate.
- Bench: XIII** Hon'ble Justice Shri C.V. Sirpurkar.
Shri R.S. Patel, Advocate.

The above mentioned Benches may kindly be approved
for the National Lok Adalat.

sd/-

(ANAND KUMAR TIWARI)
Registrar/Secretary
High Court Legal Services
Committee, Jabalpur

sd/-

Principal Registrar (Judicial)
M.P. High Court, Jabalpur

sd/-

Hon'ble Chairman,
High Court Legal Services Committee

sd/-


Hon'ble The Chief Justice.

Copy to :

1. The Private Secretary to Hon'ble Justice Shri Rajendra Menon.
2. The Private Secretary to Hon'ble Justice Shri U.C. Maheshwari.
3. The Private Secretary to Hon'ble Justice Shri R.S. Jha.
4. The Private Secretary to Hon'ble Justice Shri J.K. Maheshwari.

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10.12.14

5. The Private Secretary to Hon'ble Justice Shri Sanjay Yadav.
6. The Private Secretary to Hon'ble Justice Shri Alok Aradhe.
7. The Private Secretary to Hon'ble Justice Shri N.K.Gupta.
8. The Private Secretary to Hon'ble Justice Shri K.K.Trivedi.
9. The Private Secretary to Hon'ble Justice Shri Subhash Kakade.
10. The Private Secretary to Hon'ble Justice Shri M.K. Mudgal.
11. The Private Secretary to Hon'ble Justice Miss Vandana Kasrekar.
12. The Private Secretary to Hon'ble Justice Shri Rajendra Mahajan.
13. The Private Secretary to Hon'ble Justice Shri C.V. Sirpurkar.
14. Smt. Shahin Fatima, Advocate.
15. Shri Aditya Adhikari, Sr. Advocate.
16. Shri P.R. Bhave, Sr. Advocate.
17. Smt. Divyakirti Bohre, Advocate.
18. Miss Shraddha Dubey, Advocate.
- ✓19. Shri Samdarshi Tiwari, Advocate.
20. Shri Sanjay Agrawal, Advocate.
21. Shri K.L. Jatav, Advocate.
22. Shri Vivekanand Awasthi, Advocate.
23. Shri Uttam Maheshwari, Advocate.
24. Smt. Gulab K. Patel, Advocate.
25. Shri B.P. Sharma, Advocate.
26. Shri R.S. Patel, Advocate.
27. The Private Secretary to Registrar General.
28. The Private Secretary to Principal Registrar (J) for kind information.


(ANAND KUMAR TIWARI)
10.12.14
Registrar/Secretary
High Court Legal Services
Committee, Jabalpur

**HIGH COURT LEGAL SERVICES COMMITTEE,
JABALPUR**

The matter relates to Constitution of the Bench for Lok Adalat
dated 05.11.2011 (Saturday) at 11.00 A.M

As per Calender for the year 2011, a Lok Adalat is to be organised on Saturday 05.11.2011 in Conference Hall, High Court Jabalpur. The following Benches are proposed :→

- Bench: I** Hon'ble Justice Shri Ajit Singh,
Shri P.K. Kaurav, Advocate,
- Bench: II** Hon'ble Justice Smt. Vimla Jain,
Smt. Manjit Chuckal, Advocate,
- Bench: III** Hon'ble Justice Shri T.K. Kaushal,
Shri Samdarshi Tiwari, Advocate,

May approve the above Benches.

sd
Secretary
High Court Legal Services
Committee, Jabalpur

sd
Hon'ble Chairman,
High Court Legal Services Committee,

Copy to:

1. The Private Secretary to Hon'ble Justice Shri Ajit Singh,
2. The Private Secretary to Hon'ble Justice Smt. Vimla Jain,
3. The Private Secretary to Hon'ble Justice Shri T.K. Kaushal,
4. Shri P.K. Kaurav, Advocate,
5. Smt. Manjit Chuckal, Advocate,
6. Shri Samdarshi Tiwari, Advocate, for kind information.

sd
(VIJAY CHANDRA)
Secretary
High Court Legal Services
Committee, Jabalpur