

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

**BEFORE**

**HON'BLE SHRI JUSTICE SUSHRUT ARVIND  
DHARMADHIKARI**

**&**

**HON'BLE SHRI JUSTICE GAJENDRA SINGH**

**ON THE 2<sup>ND</sup> OF JULY, 2024**

**WRIT APPEAL No. 2003 of 2023**

*(RAMGOPAL*

*Vs.*

*NARENDRA AND OTHERS)*

**Appearance:**

*(MS. ARCHANA MAHESHWARI, LEARNED COUNSEL FOR APPELLANT)*

*(SHRI BHUWAN GAUTAM, G.A. FOR RESPONDENT/STATE)*

*(SHRI PRAMOD KUMAR MITHA, LEARNED COUNSEL FOR  
RESPONDENT[R-1])*

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**Reserved on : 14.05.2024**

**Pronounced on : 02.07.2024**

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**ORDER**

Per: SUSHRUT ARVIND DHARMADHIKARI, J.

Heard finally with the consent of both the parties.

The present writ appeal under Section 2(1) of the Madhya Pradesh

Uchha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 has been filed assailing the order dated 05.09.2023 passed in W.P. No.4195/2023 as well as order dated 07.11.2023 passed in R.P. No. 1141/2023, whereby the writ petition as well as the review petition have been dismissed.

2. The brief facts of the case are that the appellant had filed a writ petition challenging the order dated 13.02.2023 passed by the Collector, Mandsaur whereby the appeal filed by the appellant against the order dated 18.11.2022 passed by Sub-Divisional Officer, Revenue- Garoth has been rejected. The appellant was appointed as Pujari vide order dated 31.09.1980 of Devsthan Ram Mandir. He was discharging the duties of a Pujari in the aforesaid Temple for last 42 years. The Respondent No. 1 moved an application for appointment as Pujari of Devsthan Ram Mandir before the S.D.O. (Revenue). The learned S.D.O. (Revenue) has dismissed the application. Being aggrieved, the Respondent No.1 challenged the order of S.D.O before the Collector which was also dismissed. Again being aggrieved, the Respondent No. 1 challenged both the orders passed by S.D.O (Revenue) as well as Collector before the Additional Commissioner. However, the Respondent No.1 withdrew the appeal vide order dated 15.09.2022 meaning thereby, the order of S.D.O (Revenue) as well as Collector had attained finality. The Respondent No.1 again moved an application before the S.D.O (Revenue) afresh for appointment of Pujari of Devsthan Ram Mandir. The S.D.O called for the report and held that the present appellant is not performing the puja of the Devsthan Ram Mandir since 2018, therefore, allowed the application filed by

Respondent No.1 and appointed him on the post of Pujari without considering the fact that the appellant was already appointed as Pujari vide order dated 31.09.1980.

3. Being aggrieved, the appellant filed the writ petition and the same was dismissed on the ground that the appellant himself had accepted that he is residing in Rajasthan and had contracted second marriage based on Ration Card and Aadhar Card of Rajasthan. Being aggrieved, the appellant had filed the W.A. No. 1648/2023 which was dismissed as withdrawn vide order dated 06.10.2023 with the liberty to file a review petition before the learned Single Judge. Thereafter, the appellant filed a R.P. No. 1141/2023 which came to be dismissed vide order dated 07.11.2023. Now, the appellant has filed the present writ appeal.

4. Learned counsel for the appellant contended that since the order passed by S.D.O (Revenue) dated 18.11.2022 as well as order passed by Collector dated 13.02.2023 rejecting the application of Respondent No.1 for appointment of Pujari as also the appeal filed before the Additional Commissioner by the Respondent No.1 having been withdrawn vide order dated 15.09.2022, the *lis* was finally adjudicated, therefore, second application filed by the Respondent No.1 was itself not maintainable. The learned Single Judge erred in not considering this aspect and dismissed the writ petition without considering the aforesaid fact thereby causing great injustice to the appellant.

5. On the other hand, learned counsel for the respondents vehemently opposed the prayer and submitted that the learned Single Judge has not committed any error while dismissing the writ petition

and the review petition. The writ appeal is liable to be dismissed.

**6.** Heard learned counsel for the parties and perused the record.

**7.** It is not in dispute that the order passed by S.D.O (Revenue) dated 18.11.2022 as well as order passed by Collector dated 13.02.2023 having attained finality after withdrawal of second appeal before the Additional Commissioner, the claim of the Respondent No.1 had attained finality, in such a situation second application filed by Respondent No.1 was not at all maintainable. Without granting any opportunity of hearing to the appellant as well as without setting aside the original order appointing the appellant as Pujari dated 31.09.1980, the impugned orders could not have been passed. In such a situation, order dated 05.09.2023 passed by learned Single Judge in W.P. No.4195/2023 as well as order dated 07.11.2023 passed in R.P. No. 1141/2023 deserves to be and are hereby set aside.

**8.** As a consequence, the order passed by the S.D.O (Revenue) dated 18.12.2022 as well as order passed by Collector dated 13.02.2023 are also hereby set aside. However, the Respondent No.1 would be at liberty file a fresh application before the S.D.O (Revenue) Garoth seeking appointment after impleading the appellant as a necessary party in the application within a period of 15 days from the date of receipt of certified copy of the order. The Respondent No. 3 S.D.O. (Revenue) Garoth is directed to decide the application afresh after affording proper opportunity of hearing as well as considering the documents and the reply filed by either of the parties, pass a reasoned and speaking order as expeditiously as possible preferably within a period of one month from

the date of filing of the application. The S.D.O shall strictly decide the application in accordance with the Circular of State Government No. F7-3/2019/68 dated 04.02.2019 issued for the purpose of appointment of Pujaris.

9. Accordingly, the writ appeal stands allowed. No order as to costs.

10. Till the fresh application is decided, the Respondent No.1 shall continue to perform the daily puja of Devsthan Ram Mandir.

**(S.A. DHARMADHIKARI)**  
**JUDGE**

**(GAJENDRA SINGH)**  
**JUDGE**

**Vatan**