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WA-2652-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 2nd OF SEPTEMBER, 2026

WRIT APPEAL No. 2652 of 2026

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

ARTI SHARMA

.....
Appearance:

Ms. Smrati Sharma, Government Advocate for appellants/State.
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ORDER

Per. Justice Gurpal Singh Ahluwalia

Heard on I.A. No.10636/2026. This is an application for condonation of delay of 77 days.

Although the reasons which have been assigned by State for not filing the appeal within the period of limitation are not satisfactory and it shows lethargic attitude on the part of the State, but in view of the facts and circumstances of the case, the delay of 77 days in filing the appeal is hereby condoned.

Heard on the question of admission.

This writ appeal under Section 2(1) of the Madhya Pradesh Uchcha Nyayalay(Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 has been filed against the order dated 06.02.2026 passed by learned Single Judge in WP No.24238/2021.



Since the controversy revolves in a very narrow compass, therefore, reproduction of factual matrix and detail is not required.

It is suffice to mention here that respondent who was working as Rojgar Sahayak in Gram Panchayat Kotra, Janpad Panchayat Pahadgarh was removed from her services. Being aggrieved by the said order, she preferred an appeal before Commissioner, Chambal Division, Morena which was registered as Appeal No. 239/2020-21/Appeal. The Additional Commissioner by order dated 01.03.2021 allowed the appeal and directed for reinstatement of respondent. In compliance of that order, respondent was reinstated by CEO, Janpad Panchayat, Pahadgarh, Morena by order dated 20.04.2021. However, by impugned order dated 12.08.2021, the order dated 23.04.2021, by which respondent was reinstated was recalled on the ground that Regional Commissioner had no jurisdiction to hear the appeal against removal of Gram Rojgar Sahayak. Being aggrieved by the said order, respondent preferred WP No.24238/2021 which has been allowed by learned Single Judge primarily on the ground that if CEO, Janpad Panchayat, Pahadgarh was of the view that order passed by Additional Commissioner was without jurisdiction, even then he on his own could not have recalled the order of reinstatement which was passed in compliance of order passed by Additional Commissioner.

Challenging the order passed by learned Single Judge, it is submitted by counsel for petitioner that since Additional Commissioner had no jurisdiction to hear an appeal against an order of removal of Gram Rojgar Sahayak, therefore, the order passed by Additional Commissioner was a



nullity and thus the CEO, Janpad Panchayat, Pahadgarh was well within his right to refuse to comply the said order. However, counsel for appellant could not justify the act of CEO in recalling the order of reinstatement on his own without getting the order set aside/recalled from the Court of Additional Commissioner, Chambal Division, Morena.

It is well established principle of law that parties cannot decide on their own that which the order is illegal and which is legal and they cannot refuse to comply the order on their own.

Supreme Court in the case of **Robust hotels Private Limited and Others Vs. EIH limited and Others**, (2017) 1 SCC 622 has held as under :

"42.This Court further held that it is not open either a party to the lis or to any third party to determine at their own that an order passed by a Court is valid or void. A party to the lis or the third party who considers an order passed by a court as voidable or non est, must approach the court of competent jurisdiction to have the said order set aside on such grounds, as may be available in law. This Court held that the order of the Company Court of Madras High Court was to be complied with and sale held in violation of the said order was to be set aside."

Thus, it is clear that even an illegal order is required to be set aside and till then, it will hold the field.

Under these circumstances, the only course which was available to the CEO Janpad Panchayat, Pahadgarh was to get the order reviewed from the Court of Additional Commissioner, Chambal Division, Morena and could



not have decided on his own to disobey the order. As no illegality was committed by learned Single Judge by setting aside the order dated 12.08.2021 passed by CEO, Janpad Panchayat, Pahadgarh, District Morena, accordingly, no case is made out for warranting interference.

Appeal fails and is hereby **dismissed**.

(G. S. AHLUWALIA)
JUDGE

(ANURADHA SHUKLA)
JUDGE

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