
(1958) 02 MP CK 0005

Madhya Pradesh High Court

Case No: Rev. Appeal No"s. 9/XIV-2/57 and 10/XIV-2/57

Dayaram Sheoram Ambekar

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision: Feb. 10, 1958

Citation: (1958) MPLJ 537

Hon'ble Judges: R.D. Shukla, Member

Bench: Single Bench

Advocate: P.C. Khare, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

R.S. Shukla, Member

This order will govern Appeals Nos. 9 and 10/XIV-2 /57.

The Appellants in both the cases were officiating Revenue Inspectors since 1953. As a result of the Collector"s posting order dated 28-11-1966 they were reverted to their substantive rank of Patwari. The order of the learned Collector was challenged in two separate appeals before the Commissioner, Jabalpur Division, who dismissed them on the ground that reversion, in the instant cases, was not by way of punishment and, therefore, no appeal was tenable before him.

The Learned Counsel for the Appellants spent most of their time in trying to show that the State List, maintained by the Director, Land Records, for filling in permanent vacancies of Revenue Inspector in a district, was not fairly and properly prepared with the result that the Appellants could not be included therein. If that had been done, the Appellants would have, in the normal course, succeeded in being appointed in the permanent vacancies and their reversion would not have followed.

It is not disputed that the cause of Appellants" reversion was the posting order of the Collector dated 28-11-56 and the appeal before the Commissioner was also

directed against the same. The point for consideration is whether we can go beyond the order of the Collector in this appeal. The Collector issued the posting order to provide for the nominees of the Director, Land Records, which, it is conceded, he was bound to do. Under the rules on the subject a vacancy lasting for more than six months has to be filled in by a person nominated from the State List by the Director, Land Records, although formal appointment is to be made by the Collector of the district. Obviously, therefore, the reversion of the appellants, who were holding the rank of Revenue Inspector only in an officiating capacity, was in the course of normal administrative arrangement and cannot, as the learned Commissioner has observed, be treated as punishment.

It may be that while recommending suitable patwaris to be brought on the State List for trial as Revenue Inspector, the Collector made some mistake or that his discretion was faulty. But once his recommendations are accepted by the Director, Land Records and adopted for the purpose of preparing a State List, the Collector fades out of the picture. It is not incumbent on the Director, Land Records, to accept, in toto, the recommendations of the Collector and it must, in these cases, be assumed that, in not bringing the Appellants on the State List, the Director, Land Records, had sufficient reasons to do so. Thus the selection for the purpose of the State List was entirely that of the Director, Land Records and in going beyond the Collector's order in question the Board would be questioning the propriety of Director's decision.

The Learned Counsel were unable to point out any provision of law or rules, relevant in the case, which may authorise the Commissioner or this Court to question the decision taken by the Director, Land Records. The Director, Land Records, is not a Revenue Officer subordinate either to the Commissioner or to the Board of Revenue and his decision cannot be challenged here. If this position is correct, the Learned Counsel would apparently be wrong in trying to discuss the propriety or otherwise of the selection made by the Director, Land Records. In this context, the argument that it is the propriety of the Collector's recommendation that is in issue before this Court, is untenable. In the first instance, the appeal has been directed against the posting order dated 28-11-56 and, secondly, the recommendations of the Collector would not, in my opinion, constitute an order under the M.P. Code or any rules thereunder and cannot appropriately form a subject-matter of appeal.

I, therefore, hold that the Board cannot go beyond the order of the Collector and cannot adjudicate upon the propriety or otherwise of the recommendations made by the Collector in this behalf or the selection made finally by the Director, Land Records. As such, I am in agreement with the view taken by the learned Commissioner and dismiss the appeals as without force. A copy of this order be placed on the record of each case.