

Govind Sahay Gurjar S/O Shri Kalyan ... vs The State Of Rajasthan on 26 March, 2021

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 480/2021

Govind Sahay Gurjar S/o Shri Kalyan Sahay Gurjar

----Petitioner

Versus

The State Of Rajasthan

----Respondent

For Petitioner(s) : Mr. Rajesh Mohan Rajkumawat For Respondent(s) : Mr. Harshal Tholia for Dr. V B Sharma, AAG HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA Order 26/03/2021 Issue notice to the respondent No.3. Service on respondent No.3 shall be effected through respondent No.1 as well as by registered post.

Learned counsel for the petitioner submits that so far as other respondents are concerned, they are duly represented by the counsel who has put in appearance as a Caveator. Hence, notices to other respondents need not be issued.

The petitioner by way of this writ petition has challenged the order dated 5.1.2021 whereby the powers of the petitioner who has worked as Food Safety Officer have been withdrawn. The order has been passed without approval of the State Government and the without issuing Gazette Notification. The petitioner also challenges the order by which he has been relieved vide order dated 05.01.2021.

Learned counsel submits that petitioner has challenged the order dated 3rd June, 2020, whereby he was placed under awaiting (2 of 4) [CW-480/2021] posting order in the Directorate by the respondent No.4. The said order was challenged by him in SBCWP No.6040/2020 which was dismissed with liberty to the petitioner to avail alternative remedy before the Tribunal. He filed an appeal bearing No.695/2020 challenging the order dated 3.6.2020 and the Tribunal vide its order dated 5.8.2020 stayed the operation of order of awaiting posting order dated 3.6.2020.

Learned counsel submits that the order passed by the Tribunal was not complied with and he was not allowed to join his duties. He therefore, filed a contempt petition against the respondent Nos.3 and 4 whereafter the petitioner was allowed to join the duties on 6.10.2020, he joined on 7.10.2020 at CMHO, Ajmer and was allotted additional charge of Food Safety Officer of District, Dungarpur in addition to his own duties. Vide order dated 21.10.2020, he was directed to be relieved for Dungarpur where he joined on 25.10.2020. On 14.11.2020, he was again relieved from CMHO, Ajmer where he joined on 18.11.2020. Thereafter, the petitioner was allotted charge of District Pratapgarh vide order dated 26.11.2020 and was relieved to join at Pratapgarh. He therefore, filed an appeal before the Tribunal bearing No.1554/2020 challenging the order dated 26.11.2020. The Tribunal taking into consideration the aforesaid facts stayed the operation of relieving order dated

26.11.2020 vide order dated 8.12.2020.

Learned counsel submits that the petitioner has joined on 22.12.2020 in pursuance of the order dated 8.12.2020 but was not allowed to join and was relieved and directed to join the Directorate vide order dated 23.12.2020 where he joined on (3 of 4) [CW-480/2021] 24.12.2020. Ultimately, the orders have been passed on 4.1.2021 to allow him to join back at Ajmer. The respondents thereafter issued the impugned order dated 5.1.2021 and the respondent No.1 has withdrawn the powers and ordered to report to his original post of Lab Technician.

Learned counsel submits that the petitioner has been divested on account of the complaints made on political level and the respondent No.3 who is holding the post of Director as additional charge by way of working arrangement while his original post is Additional Director (Gazetted) is acting as Food Safety Commissioner-Cum-Director and arbitrarily passed the orders on account of malafide. It is also submitted that the respondent No.3 was not empowered to hold post of Commissioner as per Food Safety and Standards Act and Rules, 2011 wherein, qualifications have been prescribed that no person below the rank of Commissioner and Secretary to the State Government shall be eligible to be appointed as the Commissioner, Food Safety.

The respondents had entered into as Caveator and filed his reply and have stated that departmental enquiry proceedings have been initiated against the petitioner. It is stated that the petitioner was initially appointed on the post of Lab Technician and was given powers of Food Inspector on 18.06.2007 after the commencement of Food Safety and Standard Act, 2006. The petitioner officiated as Food Safety Officer at Ajmer where several complaints were received alleging collections of wrongful samples and irregularities, the petitioner has been relieved from the said responsibility due to several complaints received against him. It is (4 of 4) [CW-480/2021] also stated that the Director, (Public Health), Medical and Health Services was appointed as Commissioner of Food Safety vide Gazette Notification dated 16.12.2008 and as per Section 37 of the Act of 2006, Commissioner of Food Safety is empowered to appoint such persons who are having the qualifications prescribed by the Food Safety Officers. It is stated that the enquiry proceedings initiated against him.

Counsel for the petitioner refuted the said facts and stated that the facts mentioned are false, no charge sheet has been issued to the petitioner. In the circumstances, this court directed the respondents to file an additional affidavit to inform whether a charge-sheet was issued to the petitioner under the CCA Rules on or before 29.1.2021. i.e. the date when the reply was filed.

An affidavit has been filed by the deponent who has filed the earlier reply and it is stated that no charge sheet has been issued to the petitioner and the Commissioner had requested the concerned CMHO to initiate the disciplinary proceedings against the petitioner.

Learned counsel for the petitioner may file his response to the same.

List this case again on 09.04.2021.

