

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

WP No. 3346 of 2026

(SAURABH TRIPATHI Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Dated : 26-02-2026

Petitioner is person in person.

Shri Kushal Goyal, Dy. A.G. for the respondents/State, on advance notice.

The petitioner has filed this petition under Article 226 of the Constitution of India challenging the legality and validity of the notification dated 09.12.2021, by which the powers and functions under Sections 58, 106-124, 129-132, 144 and 144-A of Cr.P.C. were conferred to the Assistant Commissioner of Police (ACP) as Special Executive Magistrate to exercise the powers under the aforesaid sections.

The petitioner argued that the aforesaid notification was issued under Section 21 of Cr.P.C. The contention of the petitioner is that after the enforcement of the Commissionerate of police system in Indore town, a new Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 has been issued. As per the provisions of Section 15 of BNSS, 2023, the powers of the Special Executive Magistrate reads as under :-

"15. Special Executive Magistrates.—The State Government may appoint, for such term as it may think fit, Executive Magistrates or any police officer not below the rank of Superintendent of Police or equivalent, to be known as Special Executive Magistrates, for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Sanhita on Executive Magistrates, as it may deem fit."

The petitioner argued that after the commencement of BNSS, 2023, powers of the Special Executive Magistrate cannot be conferred to a Police Officer below the rank of Superintendent of Police or equivalent. He contended that the said conferral of power is contrary to Section 15 of BNSS, 2023. He further argued that the repeal and savings under Section 531 of BNSS, 2023 specifically excludes conferral of power on the Special Executive Magistrate.

In view of the aforesaid, issue notice to the respondents on payment of process fee within seven working days by RAD mode, with due acknowledgement, returnable within four weeks.

List thereafter.

(VIJAY KUMAR SHUKLA)
JUDGE

(ALOK AWASTHI)
JUDGE

gp