

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE RAVI MALIMATH,

CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PURUSHAINDRA KUMAR KAURAV

ON THE 15th OF MARCH, 2022

WRIT APPEAL No.91 of 2022

Between:-

**SWAKSHTAGRAHI SANGH, JANPAD
PANCHAYAT NIWAS**

.....APPELLANT

(BY SHRI NITYANAND MISHRA - ADVOCATE)

AND

1. **UNION OF INDIA, PANCHAYAT RAJ
SECRETARIATE THROUGH SECRETARY,
NEW DELHI.**
2. **THE PRINCIPAL SECRETARY,
PANCHAYAT EVAM GRAMIN VIKAS
VIBHAG, PANCHAYAT RAJ
SANCHANALAY, NEAR OFFICE OF
PROVIDENT FUND, ARERA HILLS (NEAR
HINDUSTAN PETROL PUMP), BHOPAL,
DISTRICT BHOPAL (M.P.).**

3. **THE COLLECTOR MANDLA, DISTRICT MANDLA (M.P.).**
4. **JILA KARYAKRAM PRABANDHAK AJEEVIKA MISSION MANDLA, DISTRICT MANDLA (M.P.).**
5. **CHIEF EXECUTIVE OFFICER, JANPAD PANCHAYAT NIWAS, DISTRICT MANDLA (M.P.).**

....RESPONDENTS

(BY SHRI B.D.SINGH – GOVERNMENT ADVOCATE FOR RESPONDENTS AND SHRI BRINDAWAN TIWARI – ADVOCATE FOR THE INTERVENERS)

*This appeal coming on for admission this day, **Hon'ble Shri Justice Purushaindra Kumar Kaurav**, passed the following:*

ORDER

This *intra* Court appeal takes exception to order dated 17.11.2021, passed by the learned Single Judge in Writ Petition No. 1540 of 2021, whereby, petition filed by appellant-petitioner has been dismissed.

2. The brief facts of the case are that the appellant-petitioner No.1 claims to be a Swakshtagrahi Sangh, Janpad Panchayat, Niwas, District Mandla and petitioner No.2 (in the writ petition) is the member of said Sangh. Appellant-petitioner No.1-Sangh has been registered with an object to serve the interest of its members by maintaining their services as Mobilizers working in the various

Gram Panchayats within the area of Janpad Panchayat, Niwas. It is stated that many Mobilizers have been appointed and discharging their duties without any complaint, however, in view of certain amendment in the existing instructions, vide order dated 17.03.2020, the services of all existing Mobilizers have been discontinued. Therefore, the appellant-petitioner No.1-Sangh has prayed that the order dated 08.01.2021, whereby, new selection process for appointment on the post of Mobilizer of Janpad Panchayat, Niwas has been commenced, be set aside with a further prayer to issue directions to the respondents to continue them on the said post.

3. The learned Single Judge relying on the decision of this Court in the matter of ***Prabhat Vs. Barkatulla University***¹ held that *firstly*, the resolution on which appellant-petitioner had relied on and the averments made in the petition do not fulfill the requirement of law for filing the petition and, *secondly*, in view of the fact that the members of the petitioner-Sangh were not appointed by the competent authority, therefore, interference was declined.

4. Learned counsel for the appellant-petitioner submits that they have filed a resolution (Annexure A-1) alongwith the list of their members to substantiate the argument that appellant-petitioner No.1-Sangh was authorized to file the writ petition.

¹ 2011 ILR M.P.-1692.

5. Learned counsel appearing for the appellant-petitioner further submits that by way of fresh instructions dated 31.12.2020, extra preference has been given to the persons belonging to a particular category which is not permissible in law.

6. We have heard the learned counsel for the parties and perused the record.

7. The Division Bench of this court in the matter of ***Prabhat Vs. Barkatulla University***¹, has held that a writ petition for enforcement of the rights of its members, as distinguished from the rights of the Association as a body, can be filed by the Association acting through its office bearers or members, whether the Association is registered or unregistered, incorporated or not, only when the Association can satisfy the Court that if an adverse decision is given in that petition, all the members of that Association or “Body of Individuals” will be bound by the decision. It has also been held that if the same principle is not followed, immediately after adverse decision, any other members of the said Association may come before the Court in an independent writ petition saying that he has not been heard and he had not authorized such Association or office bearer or member to represent him in the litigation.

8. Therefore, to bind the members by the decision in a litigation brought before the Court on behalf of such members by any Association, it is necessary

that such Association must clearly resolve that who authorized the Association to file such litigation. The resolution should also mention that the members will abide any decision rendered in such litigation. In the present case, a perusal of the resolution clearly shows that the same does not fulfill the stipulated requirement. Hence, the learned Single Judge has not committed any error while rejecting the writ petition.

9. In view of the aforesaid, we are not inclined to adjudicate the rights of the Mobilizers as to whether they are entitled to continue or whether they have been appointed or not at the instance of the present appellant. Consequently, the instant writ appeal is dismissed.

(RAVI MALIMATH)
CHIEF JUSTICE

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MKL.