



**IN THE SUPREME COURT OF INDIA
INHERENT/ORIGINAL JURISDICTION**

**IN RE: PERFORMANCE APPRAISAL REPORTS OF THE
OFFICERS OF THE INDIAN FOREST SERVICE**

**I.A. NO.172422 OF 2024
[Applications for Impleadment]**

WITH

**I.A. NO.172425 OF 2024
[Applications for Direction]**

WITH

**I.A. NO. 172427 OF 2024
[Application for Exemption from filing Official
Translation]**

WITH

**I.A. NO. 172429 OF 2024
[Application for appearing as Petitioner-in-Person]**

WITH

**I.A. NO. 179359 OF 2024
[Application for Ex-Party and Interim Stay]**

WITH

**I.A. NO. 290215 OF 2024
[Application for Impleadment]**

WITH

**I.A. NO. 290217 OF 2024
[Application for Direction]**

WITH

**I.A. NO. 105862 OF 2025
[Applications for Impleadment]**

WITH

**I.A. NO. 105864 OF 2025
[Application for Direction]**

WITH
I.A. NO. 105865 OF 2025
[Application for Exemption from filing Official
Translation]
IN
WRIT PETITION (C) NO. 202 OF 1995

IN RE: T.N. GODAVARMAN THIRUMULPAD
...PETITIONERS

VERSUS

UNION OF INDIA AND OTHERS **...RESPONDENTS**

IN THE MATTER OF:

GAURAV KUMAR BANSAL **...APPLICANT**

UNNAMATLA PRAKASHAM **...APPLICANT**

INDIAN FOREST SERVICE ASSOCIATION
(STATE UNIT) **...APPLICANT**

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J U D G M E N T

B.R. GAVAI, CJI

I. INTRODUCTION

1. The present batch of applications pertains to an issue as to whether the officers in the Indian Administrative Service (hereinafter referred to as, “IAS”) would be a “reporting authority”, “reviewing authority” and “accepting authority” of the officers working in the Indian Forest Service (hereinafter referred to as, “IFS”).

2. The present applications basically challenge the Government Order dated 29th June 2024 (hereinafter referred to as the, “said G.O.”) notified by the Government of Madhya Pradesh with regard to writing Performance Appraisal Report (hereinafter referred to as, “PAR”) of the officers belonging to the IFS. The relevant part of the said G.O. reads thus:

“2. Before evaluating the performance of the Divisional Forest Officer (Territorial), the concerned Conservator or Chief Conservator of Forest (Reporting Authorities) will seek a note from the District Collector. Similarly and before evaluating the performance of the Conservator of Forests and Chief Forest Conservator (Territorial), the Additional Principal Chief Forest Conservator (Development) will seek a note from the Divisional Commissioner and

these notes shall be considered during the time of Performance Appraisal Report (PAR).

3. Comments by Collector and Divisional Commissioner on performance of Indian Forest Service officers in field positions on areas such as MANREGAS, Joint Forest Management, Forest Rights Act, land acquisition for development projects, mining, district planning committee decisions, livelihood and skill development, district archeological and tourism council, implementation initiatives related to any other development will be sent on a separate sheet.”

3. The applicants have a grievance with regards to the “reporting authority”, “reviewing authority” and “accepting authority” as prescribed in the said G.O., insofar as certain posts in the IFS are concerned. The applicants also have a grievance with regard to the aforementioned paragraphs 2 and 3 of the said G.O.

II. SUBMISSIONS

4. We have heard Shri K. Parameshwar, learned *amicus curiae* and Shri Tushar Mehta, learned Solicitor General appearing on behalf of the State of Madhya Pradesh.

5. Shri Parameshwar, learned *amicus curiae* submits that the said G.O issued by the Government of Madhya Pradesh is directly in violation of the judgments delivered by this Court in the cases of ***State of Haryana v. P.C. Wadhwa, IPS***,

Inspector General of Police and Another¹, Santosh Bharti v. State of Madhya Pradesh², and the order passed by this Court in the present proceedings dated 19th April 2004. The learned *amicus curiae* therefore submits that the said G.O. is liable to be quashed and set aside.

6. *Per contra*, Shri Tushar Mehta, learned Solicitor General appearing on behalf of the State of Madhya Pradesh submits that as per the Order of Precedence of the Government of Madhya Pradesh dated 23rd December 2011, the Additional Chief Secretary (hereinafter referred to as, “ACS”) and the Principal Secretary (hereinafter referred to as, “PS”) hold ranks superior to that of the Principal Chief Conservator of Forests (hereinafter referred to as, “PCCF”). He further submits that in accordance with the provisions as contained in clauses (2) and (3) of Article 166 of the Constitution of India, the Governor of Madhya Pradesh has framed the Madhya Pradesh Government Business (Allocation) Rules. He submits that under the said Rules, each Secretariat Department is required to have a Secretary to the Government (ACS/PS). It is submitted that for

¹ (1987) 2 SCC 602

² (2007) 15 SCC 273

the Forest Department, ACS/PS is the official administrative head of the IFS.

7. The learned Solicitor General submits that the Forest Officers and particularly the Divisional Forest Officer (hereinafter referred to as, “DFO”) who is the Head of the Division, discharges diverse responsibilities. It is submitted that the DFO is also responsible for various duties like conservation of forests, implementation of government schemes, enforcement of forest laws, forest fire management, legal matters, financial administration, and interdepartmental coordination, amongst others. He submits that therefore, it is necessary that the evaluation of the performance of DFOs should be accepted by the Secretary of the Forest Department who is normally an ACS/PS. He submits that similarly even insofar as the PAR of the Chief Conservators of Forests (hereinafter referred to as, “CCFs”) is concerned, the “accepting authority” should be only ACS or PS. He further submits that assigning PCCF or the Head of Forests as “reviewing authority” or “accepting authority” for the Additional Principal Chief Conservator of Forest (hereinafter referred to as, “APCCF”) working in vertical roles at the

headquarters is not consistent with the revised appraisal rules. He submits that the performance must be evaluated by those who have continuing engagement with the officer's work.

8. Shri Tushar Mehta, learned Solicitor General fairly submits that ignoring the role of the ACS/PS in the PAR channel of IFS officers would not only be contrary to legislative intent but also inconsistent with principles of governance, accountability and equity in public administration that demand accountability through real supervision. He fairly submits that in order to alleviate the fear in the minds of the IFS officers, the State of Madhya Pradesh has agreed that it will not insist on marking by the ACS/PS, instead, only comments of the reviewing officers would be called for.

III. DISCUSSION AND ANALYSIS

(i) Statutory Provisions

9. For examining the controversy, it will be relevant to refer to sub-section (1) of Section 3 of the All-India Services Act, 1951 (hereinafter referred to as, "AIS Act"), which reads thus:

"3. Regulation of recruitment and conditions of service.—(1) The Central Government may, after consultation with the Governments of the States concerned including the State of Jammu and Kashmir and by notification in the Official Gazette, make rules for the regulation of recruitment, and the

conditions of service of persons appointed, to an all-India Service.”

10. In exercise of powers conferred by sub-section (1) of Section 3 of the AIS Act, the Central Government, after consultation with the Governments of the States concerned, has made the All-India Services (Confidential Rolls) Rules, 1970 (hereinafter referred to as, “1970 Rules”).

11. Rule 2 of the 1970 Rules provides various definitions. It will be relevant to refer to the following definitions provided in the 1970 Rules:

“2. Definitions.—In these rules, unless the context otherwise requires:—

(a) **‘accepting authority’** means the authority who was, during the period for which the confidential report is written, immediately superior to the reviewing authority and such other authority as may be specifically empowered in this behalf by the Government”;

.....

(e) **‘reporting authority’** means the authority who was, during the period for which the confidential report is written, immediately superior to the member of the Service and such other authority as may be specifically empowered in this behalf by the Government;

(f) **‘reviewing authority’** means the authority who was, during the period for which the confidential report is written, immediately superior to the reporting authority and such other authority as may be specifically empowered in this behalf by the Government;”

12. In exercise of powers conferred by sub-section (1) of Section 3 of the AIS Act, the Central Government, after consultation with the Governments of the States concerned, by a notification dated 8th December 1987, has made the All-India Services (Confidential Rolls) Second Amendment Rules, 1970, by which the definitions of “accepting authority”, “reporting authority” and “reviewing authority” were amended, which read thus:

“(a) ‘**accepting authority**’ means such authority or authorities supervising the performance of the reviewing authority as may be specifically empowered in this behalf by the Government”;

.....

(e) ‘**reporting authority**’ means such authority or authorities supervising the performance of the member of the Service reported upon as may be specifically empowered in this behalf by the Government;

(f) ‘**reviewing authority**’ means authority or authorities supervising the performance of the reporting authority as may be specifically empowered in this behalf by the Government;”

13. In exercise of powers conferred by sub-section (1) of Section 3 of the AIS Act, the Central Government, after consultation with the Governments of the States concerned, made the All-India Services (Performance Appraisal Report)

Rules, 2007 (hereinafter referred to as, “2007 Rules”). The definitions of “accepting authority”, “reporting authority” and “reviewing authority” as provided in the 2007 Rules, read thus:

“(a) ‘**accepting authority**’ means the authority which supervises the performance of the reviewing authority as may be specifically empowered in this behalf by the Government”;

.....

(j) ‘**reporting authority**’ means such authority or authorities supervising the performance of the member of the Service reported upon as may be specifically empowered in this behalf by the Government;

(k) ‘**reviewing authority**’ means such authority or authorities supervising the performance of the reporting authority as may be specifically empowered in this behalf by the Government;”

(ii) Internal Communications

14. For deciding the issue in question, it will also be necessary to refer to certain clarifications and Office Memorandum (hereinafter referred to as, “O.M.”) issued by the Union of India.

15. Clause 4 of the clarification dated 28th December 1990 reads thus:

“4. Reporting Authority should be in a higher grade of pay than the officers reported upon and the Reviewing Authority should be in a higher grade than the Reporting Authority.- I am directed

to refer to Rule 2(e) of the AIS (CR) Rules, 1970, wherein the reporting authority has been defined as the authority or authorities supervising the performance of the member of the Service reported upon as may be specifically empowered in this behalf by the Government.

2. It appears that some States have kept in view the seniority and pay scale of the reporting officer vis-à-vis the Member of the Service reported upon while assigning reporting authorities whereas others have not. Instances have come to the notice of this Department wherein ACRs of the members of All India Service have been initiated by officers belonging to the same batch or drawing pay in the same scale as that of the officer reported upon.

3. It is suggested to the State Govts. that while assigning reporting/reviewing authorities efforts may be made to ensure that a member of the Service or any other officer does not initiate the C.R. of another member of the Service in the same grade of pay. It is also desirable that the reviewing authority is in a higher grade than the reporting authority within the limits of administrative convenience.”

16. It can thus be seen that seniority and pay-scales of the reporting officer vis-à-vis the Member of the Service reported upon is required to be taken into consideration while assigning reporting authorities. It further states that various instances have come to notice wherein Annual Confidential Reports (hereinafter referred to as, “ACRs”) of the Members of All India Service have been initiated by officers belonging to the same batch or drawing pay in the same scale as that of the officer reported upon. It has therefore been suggested to the State

Governments that while assigning reporting/reviewing authorities, efforts should be made to ensure that a Member of the Service or any other officer does not initiate the Confidential Report (hereinafter referred to as, "C.R.") of another Member of the Service in the same grade or pay. It further provides that it is desirable that the reviewing authority is in a higher grade than the reporting authority within the limits of administrative convenience.

17. It will also be relevant to refer to a letter of the Ministry of Environment & Forest (hereinafter referred to as, "MoEF") dated 8th November 2001, which reads thus:

“(V) WRITING OF REPORTS OF MEMBERS OF THE INDIAN FOREST SERVICE

1. Writing of Reports of members of the Indian Forest Service.- Attention of the State Government is invited to this Ministry's letter No. 14/20/2000-SU dated 28th September, 2000 vide which a copy of order dated 22/09/2000 passed by the Hon'ble Supreme Court in I.A. No. 424 (Civil Writ Petition No. 202 of 1995) : T.N. Godavarman Thirumulkpad had been forwarded for implementation of various directions given by the Apex Court.

2. One of the directions of the Apex Court was in regard to writing of Annual Confidential report of the members of the Indian Forest Service. The Hon'ble Supreme Court had directed that upto the officers of the rank of Addl. Principal Chief Conservator of Forests the reporting authority has to be the immediately superior officer within the Forest Department. It is only in the case of Principal Chief

Conservator of Forest that the reporting authority would be a person other than the one belonging to the Service because there is no one superior to him within the EFS. Therefore, in his case the reporting authority would be a person to whom he reports and who is superior to him in hierarchy.

3. Keeping in view the directions given by the Hon'ble Supreme Court, all the State Governments are advised to ensure that for writing the Annual Confidential Reports of the IFS officers upto the rank of Additional Principal Chief Conservator of Forests, the reporting authority should be their immediate superior authorities in the Forest Department. As regards reviewing/reporting authority in relation to officers of the rank of Addl. Principal Chief Conservator of Forests and Principal Chief Conservator of Forests, the concerned authority would person who is familiar with their work and that will be the person to whom addl. PCCF/PCCF reports and who is superior to them in rank and hierarchy.

4. The State Government may, if necessary direct the Collectors and Commissioners to record their comments on a separate sheet about the performance of the IFS officers in relation to implementation of developmental work (including 20-point programme) funded by the District Administration for being considered by the superior departmental officers at the time of writing of ACRs.

5. The State Governments are requested to ensure that the directions given by the Hon'ble Supreme Court in the matter of writing of ACRs, as explained above, are strictly followed."

18. It can thus be seen that the said letter specifically noted the order passed by this Court in the present proceedings titled dated 22nd September 2000³, wherein this Court had

³ (2007) 15 SCC 273

directed that up to the rank of APCCF, the “reporting authority” had to be an immediate superior officer within the Forest Department. It further noted that this Court had also directed that it was only in the case of PCCF that the “reporting authority” would be a person other than the one belonging to the Forest Service because there was no one superior to him/her within the IFS. It noted that this Court further directed that in that case, the “reporting authority” would be a person to whom he reported and who was superior to him in hierarchy.

19. The aforesaid communication of the MoEF directed all the State Governments to ensure that for writing the ACRs of the IFS officers up to the rank of APCCF, the “reporting authority” should be their immediate superior authorities in the Forest Department. It further directed that regarding the reviewing/reporting authority in relation to officers of the rank of APCCF and PCCF, the concerned authority would be a person who was familiar with their work and that would be the person to whom APCCF/PCCF reported and who was superior to them in rank and hierarchy. It further directed that the State Governments may, if necessary, direct the Collectors and

Commissioners to record their comments on a separate sheet about the performance of the IFS officers in relation to the implementation of developmental work (including 20 point programme) funded by the District Administration for being considered by the superior departmental officers at the time of writing of ACRs.

20. It will be relevant to refer to the O.M. dated 2nd September 2004 notified by the Department of Personnel and Training (hereinafter referred to as, “DoPT”), which reads thus:

“2. Writing of ACRs of All India Services Officers – instructions regarding.- The Hon’ble Supreme Court in I.A. No.424 in Writ Petition (Civil) No. 202 of 1995 (T.N. Godavarman Thirumulkpad Vs. Union of India & Others) had considered the issue of the competent authority to write the confidential report of Forest Department Officers (implementation of the judgement of the Hon’ble Supreme Court). The Ministry of Environment & Forests issued instructions vide letter No. 22019/1/2001-IFS-I dated 8th November, 2001 (Copy enclosed).

2.1 This Department filed I.A.No. 477/2003 for modification or clarification of the above order of the Hon’ble Supreme Court. The Hon’ble Supreme Court directed that the matter be heard by the Central Empowered Committee (CEC), constituted by the Hon’ble Supreme Court of India. The CEC has agreed with the views of Department of Personnel & Training (DOP&T) that the Hon’ble Court’s order dated 22.09.2000 was issued in a particular context and should not be generalized to cover other Services. It has also agreed with the view of the DOP&T that if the Forest Officer is working in the Secretariat or

other Departments where his immediate supervising officer is a non-forest officer, his C.R should be written by such an officer [para 8(x)].

2.2 The relevant recommendation of the CEC is reproduced below:-

“In the light of the above, the Committee is of the considered view that this Hon’ble Court’s order dated 22.09.2000 requires no modification. The Hon’ble Court’s order has set right the anomaly that existed in the State of Madhya Pradesh regarding CRs of the Forest Officers. The Hon’ble Court’s order is not inconsistent with the amended CR Rules. It may be clarified that the order of 22.09.2000 of this Hon’ble Court is applicable only for reporting, reviewing or accepting the confidential reports of the Forest Officers working within the Forest Department and is not applicable for Forest Officers working outside the Department or for other Services”.(para 10).

2.3 In pursuance of the recommendations of CEC, the Hon’ble Supreme Court has in its order of 26th April, 2004 in I.A.No. 1035, (Report of the Central Empowered Committee in I.A. No. 776) in WP (Civil) No. 202 of 1995 , agreed with the same and has dismissed I.A.No. 424 and disposed of I.A.No. 1035. A copy of the Recommendation of the CEC can be made available on request.

2.4 It is therefore, clarified that the order passed by Hon’ble Supreme Court on 22.9.2000 is applicable to Forest Officers working within the Forest Department and is not applicable to Forest Officers working outside the Department. It is also clarified that if the Forest Officer is working in the Secretariat or other Department where his immediate superior officer is a non-Forest officer, his CR should be written by that superior officer. This order of the Hon’ble Apex Court is also not applicable to other Services viz., the Indian Administrative Service and the Indian Police Service.”

21. It can thus be seen that the DoPT had clarified that the order passed by this Court in the present proceedings on 22nd September 2000 (***Santosh Bharti case***) was applicable to Forest Officers working within the Forest Department and was not applicable to Forest Officers working outside the Department. It further clarified that if the Forest Officer was working in the Secretariat or other Department where his immediate superior officer was a non-Forest Officer, his CR should be written by that officer superior to him. It further provided that the order of this Court was not applicable to other Services viz., IAS and Indian Police Service (hereinafter referred to as, “IPS”).

(iii) Legal Precedents

(a) State of Haryana v. P.C. Wadhwa, IPS, Inspector General of Police and Another

22. It will also be relevant to refer to some judgments and orders of this Court.

23. An issue with regard to whether the provision empowering the Home Secretary as the reporting authority for the purpose of writing a Confidential Report (hereinafter referred to as “CR”) in respect of the Inspector General of Police

arose for consideration before this Court in the case of **P.C. Wadhwa, IPS, Inspector General of Police** (supra). This Court had an occasion to consider clauses ‘e’, ‘f’ and ‘a’ of Rule 2 of the 1970 Rules. It will be relevant to refer to paragraphs 8 and 11 of the said judgment, which read thus:

“8. Now the question is whether the State Government can specifically empower any authority to be the reporting authority of the Inspector General of Police under the second part of clause (e). Apart from any legal provision, it is just and proper that a reporting authority must be a person to whom the member of the Service is answerable for his performances. In other words, the reporting authority should be a person higher in rank than the member of the Service. Indeed, that is apparent from the first part of clause (e). It is true that under the second part of clause (e), there is no indication as to the status and position of the authority who may be specifically empowered by the Government as the reporting authority, but from the point of view of propriety and reasonableness and having regard to the intention behind the rule which is manifest, such an authority must be one superior in rank to the member of the Service concerned. If that be not so, there will be an apparent conflict between the first part and second part of clause (e). We are, therefore, of the view that the State Government can specifically empower only such authority as the reporting authority as is superior in rank to the Inspector General of Police.

.....

11. In view of Sections 3 and 4 of the Police Act read with Rule 1.2 of the Punjab Police Rules, the Inspector General of Police, Haryana, is the head of the Police Department. The immediate authority

superior to the Inspector General of Police is the Minister-in-Charge of the Police Department. The only authority who could be specifically empowered as the reporting authority in regard to the Inspector General of Police under clause (e) of Rule 2 of the Rules is the Minister-in-Charge and the Chief Minister, being superior to the Minister-in-Charge, may be the reviewing authority under clause (f) of Rule 2. In acting as the reporting authority the Minister-in-Charge may be assisted by the Home Secretary, but the confidential report relating to the performances of the Inspector General of Police has to be written by the Minister-in-Charge. The Minister-in-Charge of the Police Department is supposed to be aware of the performances of the Inspector General of Police. **As the Chief Minister is the reviewing authority, he will also act as the accepting authority on the basis of the principle as laid down under Rule 6-B of the Rules providing that where the accepting authority writes or reviews the confidential report of any member of the Service, it shall not be further necessary to review or accept any such report. In other words, the Chief Minister will act both as the reviewing authority and the accepting authority.**

[Emphasis supplied]

24. It can thus be seen that this Court observed that apart from any legal provision, it was just and proper that the “reporting authority” must be a person to whom the member of the Service was answerable for his performance. This Court observed that the “reporting authority” should be a person higher in rank than the member of the Service. This Court held that from the point of view of propriety and reasonableness

and in light of the manifest intention underlying the rule, the “reporting authority” must be an individual holding a rank superior to that of the Service member concerned. This Court particularly observed that the State Government could empower only such authority as the “reporting authority” which was superior in rank to the Inspector General of Police (hereinafter referred to as, “IGP”). This Court further observed that in view of Sections 3 and 4 of the Police Act, 1861 read with Rule 1.2 of the Punjab Police Rules, 1934, the IGP, Haryana, was the head of the Police Department. It observed that the immediate authority superior to IGP was the Minister-in-Charge of the Police Department. It observed that the only authority who could be specifically empowered as the “reporting authority” in regard to the IGP under clause (e) of Rule 2 of the said Rules was the Minister-in-Charge and the Chief Minister, being superior to the Minister-in-Charge, may be the “reviewing authority” under clause (f) of Rule 2 of the said Rules. It further observed that in acting as the “reporting authority” the Minister-in-Charge may be assisted by the Home Secretary, but the confidential report relating to the performance of the IGP has to be written by the Minister-in-

Charge. It further observed that the Chief Minister would act as the “reviewing authority” as well as the “accepting authority” on the basis of the principle as laid down under Rule 6-B of the said Rules providing that where the “accepting authority” writes or reviews the C.Rs. of any member of the Service, it shall not be further necessary to review or accept any such report.

(b) Santosh Bharti v. State of Madhya Pradesh

25. It will further be relevant to note that an application being I.A. No.424 of 1998 came to be filed before this Court in the present proceedings with regard to the question as to who is the authority competent to write the C.R. with regard to an officer belonging to the Forest Department. It will be relevant to refer to the following observations of this Court in the aforementioned I.A. vide order dated 22nd September 2000

(Santosh Bharti case):

“17. The question which arises for consideration is as to who is the authority competent to write a confidential report with regard to an officer belonging to the Forest Department.

18. The Indian Forest Service is one of the All-India Services. The officers selected on the basis of an all-India competitive examination, like the officers belonging to the Indian Administrative Service, are

then deployed in different States. That becomes the cadre for them.

19. In the State of Madhya Pradesh, persons belonging to the Indian Forest Service are also deployed, just as they are deployed to other States. In the Forest Department in the State, the lowest rung for a direct recruit belonging to the Indian Forest Service is the post of Assistant Conservator of Forests. Below the Assistant Conservator of Forests are three levels starting with that of a Guard, Forester and Range Forest Officer. These three lowest rungs are manned by officers belonging to the State Forest Service. Recruitment to the post of Assistant Conservator of Forests is made partly by promotion from an officer belonging to the State Forest Department (being a Range Forest Officer) and partly, as already noticed, by direct recruitment to the Indian Forest Service.

20. The hierarchy in the Indian Forest Service is that above the Assistant Conservator of Forests is the Divisional Forest Officer, thereafter on promotion a person becomes Conservator of Forests, then Chief Conservator of Forests followed by Additional Principal Chief Conservator of Forests and at the pinnacle of the pyramid is the Principal Chief Conservator of Forests.

21. The practice which has been adopted so far in the State of Madhya Pradesh and possibly in some other States also, is that the confidential reports of the officers belonging to the Forest Department holding any of the posts between that of a Guard and the Principal Chief Conservator of Forests is not written by the superiors within the same service but is written by the officers belonging to the office of the District Collector and superior officers on the civil side.

22. For writing of the confidential reports, the Central Government has, under Section 3 of the All India Services Act, 1951, framed All India Services (Confidential Rolls) Rules, 1970. According to Rule 2(e), the “reporting authority” is defined as follows:

“2. (e) ‘reporting authority’ means the authority who was, during the period for which the confidential report is written, immediately superior to the member of the service and such other authority as may be specifically empowered in this behalf by the Government;”

23. The “reviewing authority” is defined in Rule 2(f) as follows:

“2. (f) ‘reviewing authority’ means the authority who was, during the period for which the confidential report is written, immediately superior to the reporting authority and such other authority as may be specifically empowered in this behalf by the Government;”

24. It seems that Rule 2(e) had been interpreted by the State to mean that the confidential report of an officer could be written by a person who is superior to him and also by such other officer who may be specified in this behalf. In view of the latter portion of the said Rule 2(e), the State Government has authorised officers of service other than of the Forest Department to write the confidential reports. In this manner, in effect, the administrative control of officers belonging to the Forest Department is not within the Department itself.

25. The aforesaid Rule 2(e) came up for consideration before this Court in *State of Haryana v. P.C. Wadhwa* [(1987) 2 SCC 602 : (1987) 3 ATC 690 : (1987) 2 SCR 1030] . While interpreting the said Rule 2(e), this Court at p. 1035 observed as follows: (SCC pp. 606-07, para 5)

“5. In this connection, it may be pointed out that it is not disputed that the conjunction ‘and’ occurring in clauses (e), (f) and (a) should be read as ‘or’. Under clause (e), the ‘reporting authority’ may be either immediately superior to the member of the service or such other authority as

may be specifically empowered in this behalf by the Government. The expression 'immediately superior' obviously indicates that the reporting authority should be the immediate superior officer in the same service to which the member of the service belongs. The position is the same as in the cases of 'reviewing authority' and 'accepting authority'. So, under the first part of clause (e), the reporting authority of the respondent could be a person who is immediately superior to him in the police service."

26. It appears to us, and which is logical, that up to the officer of the rank of Additional Principal Chief Conservator of Forests the reporting authority has to be the immediately superior officer within the Forest Department. For example, for the Assistant Conservator of Forests, the reporting authority can only be the Divisional Forest Officer and for him the reporting authority would be the Conservator of Forests for whom the reporting authority has to be the Chief Conservator of Forests and his reporting authority would be Additional Principal Chief Conservator of Forests and lastly his reporting authority would be the Principal Chief Conservator of Forests. Likewise the reviewing authority would also be the person within the same Department. It is only in case of the Principal Chief Conservator of Forests that the reporting authority will be a person other than the one belonging to the service because there is no one superior to the Principal Chief Conservator of Forests within the service. As far as he is concerned, the reporting authority would be a person who is familiar with the work of Principal Chief Conservator of Forests and that will be the person to whom he reports and who is superior to him in rank and hierarchy.

27. We, therefore, direct the State of Madhya Pradesh to pass appropriate orders enumerating the reporting authorities in the manner indicated hereinabove.

28. The Union of India is directed to bring to the notice of the other States the ratio of this decision as well as the decision in *P.C. Wadhwa case* [(1987) 2 SCC 602 : (1987) 3 ATC 690 : (1987) 2 SCR 1030] for issuing suitable orders wherever necessary.”

[Emphasis supplied]

26. It can thus be seen from the aforesaid observations that this Court in detail had considered the hierarchy in IFS. This Court noted the practice in the State of Madhya Pradesh that the C.Rs. of the officers belonging to the Forest Department holding any of the posts between that of a Guard and the PCCF were not written by the superiors within the same service but were written by the officers belonging to the office of the District Collector and superior officers on the civil side. After considering the definitions of “reporting authority” and “reviewing authority” as contained in the 1970 Rules and the judgment of this Court in the case of ***P.C. Wadhwa, IPS, Inspector General of Police*** (supra), this Court reiterated that up to the officer of the rank of APCCF, the “reporting authority” has to be the immediately superior officer within the Forest Department. This Court has given the entire illustration

in paragraph 26 as to who would be the “reporting authority” and the “reviewing authority” in respect of an officer.

(iv) Order of this Court in I.A. No.776 of 2002 in the present proceedings

27. It is further relevant to note that the State of Madhya Pradesh, in the present proceedings, had also filed an application being I.A. No.776 of 2002 seeking modification/clarification of the order of this Court dated 22nd September 2000 (***Santosh Bharti case***). It will be relevant to refer to the prayers made in the said I.A., which read thus:

“(i) Modify/clarify the order dated 22.09.2000 that the Reporting Authority and Reviewing Authority up to the rank of Additional Chief Conservator of Forests should be immediately superior officer as per amended provisions of Rule 2 (a), 2 (e) and 2(f) All India Service (Confidential Rolls) Rules, 1970.

(ii) The amended provisions of the All-India Services (Confidential Rolls) Rules, 1970. In Section 2 (e), 2(f) and 2(a) be given full effect to in its letter and spirit.”

28. This Court, vide order dated 1st August 2003 passed in the present proceedings, directed the Central Empowered Committee (hereinafter referred to as, “CEC”) to examine the issue and submit a report.

29. The CEC, accordingly, submitted its report on 22nd January 2004. It will be relevant to refer to the following extract of the said report:

“(i) In all the States and Union Territories except the State of Madhya Pradesh, the CR's of the Assistant Conservator of Forests, the Divisional Forest Officer and the Conservator of Forests working in the Forest Department are written by their immediate superiors in the Forest Department i.e. the Divisional Forest Officer, the Conservator of Forests and the Chief Conservator of Forests respectively. In the State of Madhya Pradesh the CR's of these Forest Officers were being written by their counterparts in the Revenue Department i.e. Assistant Collector, District Collector and Divisional Commissioner,

(ii) the primary responsibility of the forest officers working in the field is forest protection, wildlife management, implementation of FC Act, Indian Forest Act, Wildlife (Protection) Act, preparation and Implementation of Working Plans and other forestry activities. These officers work under the direct supervision and administrative control of their superior forest officers. It is, therefore, logical that their CR's are written by their superior officers in the Forest Department and not by their counterparts in the Revenue Department;

(iii) though the forest officers may be involved in implementation of various welfare and development schemes of the State Government, this should not normally become their primary responsibility;

(iv) in view of above, the system of writing of CR's of the Forest Officers working in the field by their counterparts in the Revenue Department may not be appropriate. If required, a report about the performance of the Forest Officer (s) in implementation of the welfare schemes may be sent by the Assistant Collector, Collector or the Divisional Commissioner to the designated Reporting Officer (s),

which could be taken into consideration by the Reporting Officer (s) while writing the CR(s);

(v) the CR should normally be written by the officer of higher rank and pay scale. In exceptional cases it may be allowed to be written by the officer in the same pay scale provided he is senior. It should never be allowed to be written by an officer of a lower rank or who is in a lower pay scale. There are many Divisional Forest Officers who are in a higher pay scale and/or of higher seniority vis-à-vis the District Collectors;

(vi) Rule 2(e), 2(f) and 2(a) of the All India Services (Confidential Rolls) Rules, 1970 as amended on 8.12.1987 deal with the "reporting authority", "reviewing authority" and "accepting authority". respectively. As per the amended rules, the reviewing authority and the accepting authority shall be the authority supervising the performance of the reporting authority and reviewing authority, respectively. Since the Divisional Commissioner is the supervising authority for the District Collectors and Revenue Secretary is the supervising authority for the Divisional Commissioner, if a District Collector is designated as the reporting authority for the DFO, the Divisional Commissioner and the Revenue Secretary will be the Reviewing Officer and Accepting Officer, respectively. Under these circumstances none of the officers working in the Forest Department would be involved at any level in assessing the performance of the Divisional Forest Officer;

(vii) in view of above the practice of designating the District Collector as the reporting authority and the Conservator of Forests as the reviewing authority for writing the CR of the DFO was not in consonance with the amended CR rules. Similar situation existed for other field officers of the Forest Department;

(viii) the amendments made in the All India Services (Confidential Rolls) Rules, 1970 on 8.12.1987 resulted in nullifying the Hon'ble Court's judgment dated 16.4.1987 delivered in State of Haryana vs.

Shri P.C. Wadhwa, IPS, Inspector General of Police & Anr., 1987 (2) SCR 1030.. The amendment to the said rules was not made to cure any defect in pursuant to any order of this Hon'ble Court's. The amended rules permit the Government to designate an officer in a lower pay scale or rank to write the CR of another officer in higher pay scale or rank from the same service or another service, which is not appropriate. Although there may be situations in which the reporting officer, reviewing officer or the accepting officer are from different services or departments, it is necessary that the reporting officer should be in a higher pay scale than the officer reported upon. Similarly the reviewing officer and the accepting officer should normally be in a higher-pay scale and rank and in no case in a lower pay scale or rank than the reporting officer and the reviewing officer,

(ix) the amended rules could have been brought to the notice of this Hon'ble Court by the applicant during the hearing which was not done. In any case the Hon'ble Court's order is not contrary to or inconsistent with the amended rules;

(x) the Committee agrees with the views of the DOPT that the Hon'ble Court's order dated 22.9.2000 was issued in a particular context and should not be generalised to cover other services. Similarly, it also agrees with the contention of the DOPT that if the Forest Officer is working in the Secretariat or other departments where his immediate supervising officer is a non-forest officer, his CR should be written by such an officer;"

30. After considering the aforesaid report of the CEC, this Court passed an order in the present proceedings on 19th April 2004, extract of which reads thus:

“Despite the order of this Court the State of Madhya Pradesh has not filed its response. We are in agreement with the recommendations of the CEC. IA

No.776 in IA No.424 is accordingly dismissed. It appears that several States are not following the recommendations of the CEC and the Order dated 22.9.2000. We, therefore direct that since the matter has already been decided all the States including the State of Chhattisgarh shall abide by the order dated 22.9.2000. I.A.No.1035 is disposed of”

31. It can thus be seen that this Court has reiterated that all the States shall abide by the order passed in the present proceedings by a 3-Judges Bench of this Court dated 22nd September 2000 (**Santosh Bharti case**).

(v) Recent judgment of this Court in State of Assam and Others v. Binod Kumar and Others

32. Recently, this Court in the case of **State of Assam and Others v. Binod Kumar and Others**⁴ had an occasion to consider a similar controversy with regard to who shall be the “reporting authority” or recording of the Annual Performance Appraisal Report (hereinafter referred to as, “APAR”) of the officers belonging to the IPS. This Court also had an occasion to consider the 1970 Rules as amended in 1987 and also the 2007 Rules. It will be relevant to refer to the following paragraphs of the said judgment:

“21. The definition of “reporting authority” in the 1970 Rules, post 1987, and in the 2007 Rules, did

⁴ (2024) 3 SCC 611

away with the mandate of having the “immediate superior” of the officer reported upon undertaking that exercise but it still requires the “reporting authority” to be someone who supervises the performance of the said officer. Ordinarily, such supervision would be by an officer from within the same department, who is higher in rank than the officer reported upon. The Government was, no doubt, given discretion to empower any of the authorities who supervise the performance of the officer reported upon to assume such role. This discretion, however, cannot be construed to mean that someone from outside the department can be given such power, in the light of the “reviewing authority” being defined as someone who supervises the performance of such “reporting authority”. This clearly implies that both authorities must belong to the same service or department. In effect, Rule 63(iii) of the Manual does not fit in with the scheme obtaining under the 1970 Rules and the 2007 Rules.

30. In this regard, we may also note that, in *SBI v. Kashinath Kher* [*SBI v. Kashinath Kher*, (1996) 8 SCC 762 : 1996 SCC (L&S) 1117], this Court held that officers reporting upon performance must show objectivity, impartiality and fair assessment, without any prejudices whatsoever, and the highest sense of responsibility so as to inculcate devotion to duty, honesty and integrity. It was further observed that as officers may get demoralised by negative ACRs, which would be deleterious to the efficacy and efficiency of public service, such ACRs should be written by a superior officer of high rank. Earlier, in *State of Haryana v. P.C. Wadhwa* [*State of Haryana v. P.C. Wadhwa*, (1987) 2 SCC 602], this Court considered whether the State Government could empower any authority to be the “reporting authority” of the Inspector General of Police under Rule 2(e) of the 1970 Rules. It was observed that, from the point of view of propriety and reasonableness and having regard to the intention behind the Rule, which is manifest, such an authority must be one superior in rank to the

member of the service concerned. No doubt, these observations were made in the context of the unamended Rule 2(e) of the 1970 Rules, but the principle culled out is sound and still holds good.”

33. This Court in the aforesaid judgment recorded that though the Government had been given discretion to empower any of the authorities who supervise the performance of the officer reported upon to assume such role, such a discretion could not be construed to mean that someone from outside the department could be given such power, in the light of the “reviewing authority” being defined as someone who supervises the performance of such “reporting authority”. It clearly implied that both authorities must belong to the same service or department. This Court reiterated the position as held by this Court in the case of ***P.C. Wadhwa, IPS, Inspector General of Police*** (supra).

(vi) Impugned G.O. dated 29th June 2024

34. It appears that, while other States were adhering to the practice wherein the “reporting authority” and the “reviewing authority” belonged to the same service, with the “reporting authority” being immediately superior to the officer being reported upon, and the “reviewing authority” being the

authority supervising the performance of the “reporting authority”, the State of Madhya Pradesh was not following this established practice. The practice of ACRs of the IFS officers being recorded by the officers from the IAS i.e., the District Collectors and superior officers was followed in the State of Madhya Pradesh. This practice was specifically challenged in the present proceedings by way of an application and it was found that the said practice as followed by the State of Madhya Pradesh was not correct. This Court specifically in its order dated 22nd September 2000 observed that insofar as Assistant Conservator of Forests are concerned, the “reporting authority” could only be the DFO and for DFO, the “reporting authority” would be the Conservator of Forests. This Court further observed that for the Conservator of Forests, the “reporting authority” has to be the CCFs and for CCFs, the “reporting authority” would be APCCF and for APCCF, the “reporting authority” would be the PCCF. This Court observed that up to the APCCF, the “reporting authority” and the “reviewing authority” would be the person within the same department. This Court observed that it was only in the case of PCCF that the “reporting authority” would be a person other

than the one belonging to the service because there was no one superior to the PCCF within the service. This Court observed that in such a case, the “reporting authority” would be a person who was familiar with the work of PCCF and that would be the person to whom he reported and who was superior to him in rank and hierarchy.

35. It can further be seen that in view of the order passed by this Court in the present proceedings dated 22nd September 2000, MoEF issued specific directions to the various State Governments.

36. It is to be noted that the State of Madhya Pradesh had also filed an application being I.A. No.776 of 2002 in the present proceedings for modification of the aforesaid directions of this Court. This Court directed the CEC to submit its report. The CEC accordingly submitted its report on 22nd April 2004. This Court, vide order dated 19th April 2004, expressed its agreement with the said report of the CEC and recorded that several States including the State of Madhya Pradesh were not following the recommendations made by the CEC in its report and the directions of this Court issued vide order dated 22nd September 2000 in the present proceedings.

This Court therefore reiterated its said order dated 22nd September 2000 and directed all the State Governments to follow the same.

37. The legal position as approved by this Court in two separate orders of this Court and as rightly understood by the MoEF as could be seen from its letter dated 8th November 2001 is that insofar as writing of ACRs up to the rank of APCCF is concerned, the “reporting authority” should be the immediate superior authority in the Forest Department. The position is clear as regards “reviewing authority” or “reporting authority” in relation to officers up to the rank of APCCF. It is clear that except the PCCF, the “reporting authority” has to be a superior officer from the IFS. It is only with regard to PCCF that the “reporting authority” would be a person to whom he reports and who is superior to him in rank. No doubt that, if necessary, the State Governments can provide that the Collectors and Commissioners can record their comments on a separate sheet about the performance of the IFS officers in relation to the implementation of developmental work funded by the district administration. However, the same is again

required to be considered by a superior departmental officer of the IFS.

38. It is further to be noted that even the DoPT has also issued an O.M. dated 2nd September 2004 informing all the States about the order passed by this Court in the present proceedings dated 22nd September 2000 (**Santosh Bharti case**) and the instructions issued by MoEF vide its letter dated 8th November 2001. However, the DoPT clarified that the said order passed by this Court on 22nd September 2000 would not be applicable to the forest officers who are working in a separate department where his immediate superior officer is a non-forest officer.

39. We are of the considered view that the G.O. dated 29th June 2024 is totally in violation of the specific directions issued by this Court vide its orders dated 22nd September 2000 in the present proceedings (**Santosh Bharti case**) and 19th April 2024. Perusal of the table annexed at Annexure-8 with the compilation of the learned *amicus curiae* would reveal that except the State of Madhya Pradesh, all the other States are scrupulously adhering to the directions issued by this Court in the aforesaid orders. We have no hesitation to hold that the

impugned G.O. is rather contemptuous in nature inasmuch as the said G.O. which is in violation of the aforesaid orders of this Court dated 22nd September 2000 and 19th April 2024 has been issued without even seeking clarification/modification of this Court. We could have very well proceeded to initiate contempt proceedings against the officers responsible for issuance of such G.O. However, we refrain ourselves from doing so. The said G.O. being in violation of the directions of this Court is liable to be quashed and set aside.

IV. DIRECTIONS

40. We are, therefore, inclined to allow the present applications.

41. In the result, we pass the following order:

- (i) The present applications are allowed;
- (ii) The impugned G.O. dated 29th June 2004 is held to be in violation of the order passed by this Court in the present proceedings dated 22nd September 2000 (**Santosh Bharti case**) which is reiterated and is consequently quashed and set aside;
- (iii) The State of Madhya Pradesh is directed to reframe the rules by strictly adhering to the directions issued by

this Court vide order dated 22nd September 2000 in the present proceedings (***Santosh Bharti case***) which has been clarified by the MoEF in its letter dated 8th November 2001 and also clarified by the DoPT vide its letter dated 2nd September 2004; and

- (iv) The same shall be done within a period of one month from the date of this judgment.

42. We place on record our appreciation for the efforts put in by Shri K. Parameshwar, learned *amicus curiae* for extending support and suggestion and Shri Tushar Mehta, learned Solicitor General for taking a fair stand on behalf of the State of Madhya Pradesh.

.....CJI
(B.R. GAVAI)

.....J
(AUGUSTINE GEORGE MASIH)

**NEW DELHI;
MAY 21, 2025.**