VERDICTUM.IN

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH

ON THE 17th OF NOVEMBER, 2026

WRIT PETITION No.27922 of 2024

CNR No.: MPHC010586042024

Piyush Mani Tiwari

Versus

The State of Madhya Pradesh & others

Appearance:

Shri Nityanand Mishra – Advocate for the petitioner.

Ms. Swati Aseem George – Government Advocate for the respondents/State.

Reserved on : 05.11.2026

Delivered on : 17.11.2026

ORDER

The petitioner has filed the instant petition challenging the impugned order dated 27.05.2024 (Annexure P/3) passed by respondent No. 3, whereby the authority, invoking the powers under Article 311(1) read with Articles 311(2)(b)

VERDICTUM.IN

and 311(3) of the Constitution of India and Clause 222(c) of the Madhya Pradesh Police Regulations, has dismissed the petitioner from service without conducting any departmental enquiry. The petitioner also challenges the appellate order dated 22.07.2024 (Annexure P/5) passed by respondent No. 2, whereby, the departmental appeal preferred by the petitioner against his summary dismissal has been rejected.

2. The factual matrix of the present case is that the petitioner was initially appointed in the Madhya Pradesh Police Department on 02.12.1992 on the post of Constable (Orderly/Arakshak Ardali) in the Class-III Executive Force and posted in the Special Branch, Police Headquarters, Bhopal. At the relevant point of time in May, 2024, the petitioner was discharging his duties as an Acting Sub-Inspector at the State Situation Room, Special Branch, Police Headquarters, Bhopal. On 26.05.2024, a written complaint was submitted by a private woman cleaner/sweeper deployed at the State Situation Room through her supervisor, alleging that while on duty on 26.05.2024, the petitioner had behaved indecently/objectionably with her. Acting upon the said complaint, the Assistant Inspector General of Police (Law & Order-2), Special Branch, PHQ, Bhopal, with the approval of the Inspector General of Police (Law & Order and Security), placed the petitioner under suspension with immediate effect vide order dated

VERDICTUM.IN

26.05.2024 observing that *prima facie* the act of the petitioner reflected moral turpitude and indecent conduct. On the very next day, i.e., 27.05.2024, without issuing any show-cause notice or charge-sheet and without conducting any preliminary or regular departmental enquiry, respondent No. 3 passed the impugned order dismissing the petitioner from service with immediate effect under Article 311(1) read with Articles 311(2)(b) and 311(3) of the Constitution of India and Clause 222(c) of the M.P. Police Regulations, while treating the two-day period of 26.05.2024 and 27.05.2024 as suspension.

3. Being aggrieved by the order of summary dismissal, the petitioner preferred an appeal before respondent No. 2 contending that the disciplinary authority had failed to record any reasons in writing demonstrating why holding a departmental enquiry was not reasonably practicable as mandated by Article 311(2)(b) of the Constitution of India and the law laid down by the Constitution Bench of the Supreme Court in ***Union of India v. Tulsiram Patel*, (1985) 3 SCC 398**. However, respondent No. 2 dismissed the appeal vide impugned order dated 22.07.2024 (Annexure P/5).

4. Ld. Counsel for the petitioner submits that the impugned order of dismissal dated 27.05.2024 and the appellate order dated 22.07.2024 have been passed in flagrant violation of the principles of natural justice, Article 311(2) of the

VERDICTUM.IN

Constitution of India and Rule 14 read with Rule 19 of the *Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966* (hereinafter, referred to as the "*Rules, 1966*"). It is contended that the entire disciplinary process was short-circuited within 24 hours as the petitioner was suspended on 26.05.2024 and summarily dismissed on 27.05.2024 without serving a show-cause notice, without framing charges and without even constituting an Internal Complaints Committee (ICC) under the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* or conducting a preliminary inquiry.

5. Ld. Counsel further argues that the impugned order dated 27.05.2024 contains no reasons whatsoever as to why it was not reasonably practicable to hold a regular departmental enquiry and merely recites that the reasons have been maintained separately. In support of his submissions, Ld. Counsel has placed reliance upon the judgments of the Hon'ble Supreme Court in ***Union of India v. Tulsiram Patel*, (1985) 3 SCC 398** and ***Tarsem Singh v. State of Punjab*, (2006) 13 SCC 581**, as well as the coordinate Bench decisions of this Court in ***Suresh Sharma v. State of M.P.*, W.P. No. 22257/2021**; ***Sumit Baghel v. State of M.P.*, W.P. No. 19545/2022** and ***Govind Dwivedi v. State of M.P.*, W.P. No. 3515/2024**.

VERDICTUM.IN

6. *Per contra*, Ld. Government Advocate appearing for the respondents/State has supported the impugned orders and submitted that the petitioner while on duty as an Acting Sub-Inspector on 26.05.2024. He indulged in indecent behavior with a private woman cleaner/sweeper which was in gross violation of Clause 64(11) of the M.P. Police Regulations and Rule 3(iii) of the *M.P. Civil Services (Conduct) Rules, 1965*. It is further contended that invoking Article 311(2)(b) of the Constitution of India and Clause 222(c) of the M.P. Police Regulations was fully justified because holding a departmental enquiry was not reasonably practicable due to the sensitive nature of the complaint involving a woman employee which could lead to further distress and public outrage if prolonged through an enquiry. It is also contended that not holding departmental enquiry was further justified in order to maintain public trust and discipline within the police force and the likelihood of witness intimidation given the petitioner's influence as an Acting Sub-Inspector. Reliance has been placed on ***Tulsiram Patel* (supra)** and ***State of Andhra Pradesh v. S.S. Mohammad Nisar*, (2008) 5 SCC 230** to contend that the principles of natural justice can be dispensed with in exceptional circumstances and that this Court cannot re-appreciate evidence in exercise of writ jurisdiction under Article 226 of the Constitution of India.

7. Heard the respective counsel.

VERDICTUM.IN

8. The core question that arises for consideration before this Court is whether, in the facts and circumstances of the present case, the invocation of power under Clause (b) of the second proviso to Article 311(2) of the Constitution of India by respondent No. 3 to dispense with the regular departmental enquiry and summarily dismiss the petitioner from service is sustainable in law.

9. To appreciate the rival submissions, it is apposite to reproduce the relevant provisions of Article 311 of the Constitution of India, which read as under:-

> ***"311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.—***
>
> *(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.*
>
> *(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:*
>
> *Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:*
>
> *Provided further that this clause shall not apply—*

VERDICTUM.IN

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final."

10. Admittedly, the services of the petitioner are governed by the provisions of the Rules, 1966. Dismissal from service is prescribed as a major penalty under Rule 10(ix) of the Rules, 1966, which can ordinarily be imposed only after conducting a regular departmental enquiry in the manner prescribed under Rules 14 and 15 of the Rules, 1966 by issuing a charge-sheet, recording evidence and affording the delinquent employee a reasonable opportunity to defend himself and cross-examine the witnesses. Rule 19(ii) of the Rules of 1966, which is *pari materia* to Article 311(2)(b) of the Constitution of India, carves out a special exception permitting the disciplinary authority to dispense with the regular enquiry only where the disciplinary authority is satisfied for reasons to be

VERDICTUM.IN

recorded by it in writing, that it is not reasonably practicable to hold an enquiry in the manner provided in the rules.

11. The scope and ambit of Clause (b) of the second proviso to Article 311(2) of the Constitution of India were authoritatively settled by the five-Judge Constitution Bench of the Supreme Court in ***Union of India v. Tulsiram Patel*, (1985) 3 SCC 398**, wherein the Hon'ble Supreme Court held that two conditions precedent must be satisfied for the valid application of Clause (b): *first,* there must exist a situation which makes the holding of an inquiry not reasonably practicable in the opinion of a reasonable man taking a reasonable view of the prevailing situation; and *second*, the disciplinary authority must record in writing its reasons for its satisfaction that it was not reasonably practicable to hold the inquiry. The Constitution Bench categorically held as under:-

> *"**133.** The second condition necessary for the valid application of clause (b) of the second proviso is that the disciplinary authority should record in writing its reason for its satisfaction that it was not reasonably practicable to hold the inquiry contemplated by Article 311(2). This is a constitutional obligation and if such reason is not recorded in writing, the order dispensing with the inquiry and the order of penalty following thereupon would both be void and unconstitutional.*
>
> ***134.** It is obvious that the recording in writing of the reason for dispensing with the inquiry must precede the order imposing the penalty. The reason for dispensing with the inquiry need not, therefore, find a place in the final order.*

VERDICTUM.IN

> *It would be usual to record the reason separately and then consider the question of the penalty to be imposed and pass the order imposing the penalty. It would, however, be better to record the reason in the final order in order to avoid the allegation that the reason was not recorded in writing before passing the final order but was subsequently fabricated. The reason for dispensing with the inquiry need not contain detailed particulars, but the reason must not be vague or just a repetition of the language of clause (b) of the second proviso. For instance, it would be no compliance with the requirement of clause (b) for the disciplinary authority simply to state that he was satisfied that it was not reasonably practicable to hold any inquiry. Sometimes a situation may be such that it is not reasonably practicable to give detailed reasons for dispensing with the inquiry. This would not, however, per se invalidate the order. Each case must be judged on its own merits and in the light of its own facts and circumstances."*
>
> ***[Emphasis Supplied]***

12. Following ***Tulsiram Patel* (supra)**, the Hon'ble Supreme Court in ***Jaswant Singh v. State of Punjab*, (1991) 1 SCC 362**; ***Ex Constable Chhote Lal v. Union of India*, (2000) 10 SCC 196**; ***Sudesh Kumar v. State of Haryana*, (2005) 11 SCC 525** and ***Tarsem Singh v. State of Punjab*, (2006) 13 SCC 581**, has consistently reiterated that the subjective satisfaction of the disciplinary authority that it is not reasonably practicable to hold an inquiry must be fortified by independent, objective material on record and that the finality clause under Article 311(3) does not oust judicial review under Article 226 of the Constitution when the order is arbitrary or a mere ruse to dispense with a formal inquiry.

VERDICTUM.IN

13. Testing the facts of the present case on the anvil of the aforesaid constitutional mandate, a perusal of the impugned dismissal order dated 27.05.2024 passed by respondent No. 3 reveals how the requirement of Article 311(2)(b) has been dealt with in Paragraphs 2, 3 and 4 thereof, which read thus:

> *"02- यह कि अधोहस्ताक्षरकर्ता इस बात से संतुष्ट है कि प्रायवेट महिला सफाईकर्मी द्वारा शिकायत में उल्लेखित घटना वृतांत सत्य है एवं कार्यवाहक उप निरीक्षक, पीयूषमणि तिवारी द्वारा प्रायवेट महिला सफाईकर्मी के साथ आपत्तिजनक व्यवहार किया गया है।*
>
> *03- यह कि अधोहस्ताक्षरकर्ता इस बात से संतुष्ट है कि प्रकरण में भारतीय संविधान के अनुच्छेद 311 (2) (ख) आकृष्ट होकर विधिवत जाँच किया जाना युक्तियुक्त संभव नहीं है, जिसके कारणों का उल्लेख पृथक से संधारित किया गया है।*
>
> *04- यह कि अधोहस्ताक्षरकर्ता इस बात से संतुष्ट है कि उसके समक्ष प्रस्तुत तथ्यों के आधार पर कार्यवाहक उप निरीक्षक, पीयूषमणि तिवारी को सेवा में निरंतर बने रहना लोकहित में नहीं है, जिसके कारणों का उल्लेख भी पृथक से संधारित किया गया है।"*

14. A bare reading of the impugned order dated 27.05.2024 makes it manifestly clear that the disciplinary authority has not assigned a single reason in the impugned order to demonstrate why it was not reasonably practicable to hold a regular departmental enquiry against the petitioner. Instead, paragraph No. 3 of the impugned order merely reproduces the language of Article 311(2)(b) and

VERDICTUM.IN

states that the reasons have been maintained separately. As held by the coordinate Bench of this Court in ***Govind Dwivedi v. State of M.P.*, W.P. No. 3515 of 2024**, the constitutional mandate of Article 311(2)(b) is not satisfied by merely reciting the words *'it is not reasonably practicable to hold such inquiry'*; rather, it has to be demonstrated in the order itself by assigning cogent reasons in writing as to why holding a departmental enquiry is not reasonably practicable.

15. Significantly, when this matter came up for hearing on 26.03.2026, this Court specifically noticed paragraph No. 3 of the impugned order dated 27.05.2024 and directed the Ld. Government Advocate appearing for the State to file a separate document in which the reasons for not conducting the enquiry were allegedly recorded, so that the Court could satisfy itself as to whether sufficient reasons existed for dispensing with the enquiry. Despite the specific direction of this Court, no contemporaneous record or separate note of reasons supported by objective material has been produced by the respondents.

16. Even examining the *post facto* justifications pleaded by the respondents in paragraph No. 9 of their return, namely, that the complaint involved a woman employee and prolonging the matter through an inquiry could cause distress and public outrage, that immediate action was needed to maintain public trust and discipline in the police force and that there was a likelihood of witness

VERDICTUM.IN

intimidation given the petitioner's position as an Acting Sub-Inspector; this Court finds that none of these grounds meet the constitutional threshold of Article 311(2)(b) for the reason that there is not a shred of material on record to show that the petitioner ever threatened, terrorized or intimidated the complainant or any witness or that an atmosphere of violence or insubordination prevailed which prevented witnesses from deposing. In ***Ex Constable Chhote Lal v. Union of India,*** **(2000) 10 SCC 196**, the Hon'ble Supreme Court rejected the argument that because a delinquent is a police official, he could influence witnesses, holding that such a general assumption cannot justify dispensing with a regular inquiry. The same view has been taken by this Court in ***Suresh Sharma*** **(supra)**.

17. Furthermore, the alleged gravity or sensitive nature of the misconduct is a ground to hold a prompt inquiry in accordance with law, not a license to dispense with constitutional due process. In ***Tarsem Singh*** **(supra)**, the Hon'ble Supreme Court held that proceeding on the assumption that a police official is guilty of grave misconduct that brings a bad name to the police force, without objective material showing why a formal inquiry could not be held is wholly unsustainable.

18. In the present case, the complaint was received on 26.05.2024, the petitioner was placed under suspension on 26.05.2024 and on the very next day, i.e., 27.05.2024, he was summarily dismissed from service without even a

VERDICTUM.IN

preliminary enquiry or a show-cause notice. Having already placed the petitioner under suspension and attached him to the Special Branch Line, PHQ, Bhopal on 26.05.2024, there was no impediment whatsoever in serving a charge-sheet and conducting a regular departmental enquiry in accordance with Rule 14 of the Rules, 1966.

19. Before parting with this order, this Court is constrained to take serious note of the callous and irresponsible manner in which the Return has been drafted on behalf of the State. In their reply, the respondents have placed heavy reliance on a purported judgment of the Hon'ble Supreme Court titled '*State of Andhra Pradesh vs. S.S. Mohammad Nisar*', cited as '(2008) 5 SCC 230', to contend that re-appreciation of evidence is impermissible under Article 226. However, a bare perusal of the law reports reveals that no such judgment exists. The citation '(2008) 5 SCC 230' actually corresponds to *Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)*, dealing with an entirely different subject matter regarding the suspension of sentence in a criminal appeal. It is glaringly apparent that the respondents have blindly resorted to the use of Artificial Intelligence tools to draft their pleadings, resulting in the incorporation of a fabricated case name cross-wired with an unrelated citation. Pleadings filed before a Constitutional

VERDICTUM.IN

Court are solemn documents. The casual insertion of fictitious case laws without undertaking the basic professional duty of cross-checking the citations not only wastes precious judicial time but also borders on actively misleading the Court. The respondents and the State machinery are strictly cautioned against such reckless practices. The office of the Advocate General is expected to ensure that all legal propositions and citations are meticulously verified by the drafting counsel before they are sworn on affidavit and placed on the record of this Court.

20. Consequently, this Court has no hesitation in holding that the reasons put forth by the respondents for dispensing with the regular departmental enquiry and invoking Article 311(2)(b) of the Constitution of India are unsustainable in the eyes of law. Both the impugned order of dismissal dated 27.05.2024 (Annexure P/3) and the appellate order dated 22.07.2024 (Annexure P/5) are vitiated in law and are hereby quashed. The respondents are directed to reinstate the petitioner in service forthwith. Liberty is reserved to the respondents/competent authority, if they so desire, to initiate and conduct a regular departmental enquiry against the petitioner strictly in accordance with the provisions of the *M.P. Civil Services (Classification, Control and Appeal) Rules, 1966*, after affording a reasonable opportunity of hearing to the petitioner. The payment of back wages and other

VERDICTUM.IN

consequential benefits for the intervening period shall abide by the final outcome of such departmental enquiry, if initiated. It is made clear that this Court has not expressed any opinion on the merits of the allegations leveled against the petitioner.

21. With the aforesaid observations and directions, the writ petition stands **allowed** and disposed of.

22. Let a copy of this order be transmitted to Principal Secretary, Law, Government of Madhya Pradesh, Vallabh Bhawan Bhopal and also to the Advocate General, Govt. of M.P.

23. There shall be no order as to costs.

(VIVEK KUMAR SINGH)
JUDGE