

मध्य प्रदेश शासन  
सामान्य प्रशासन विभाग  
मंत्रालय

9-1-2012

क्र. सी-6- 6/2011-3-एक,  
प्रति,

भोपाल, दिनांक ~~दिसम्बर, 2011~~

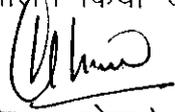
शासन के समस्त विभाग,  
अध्यक्ष, राजस्व मण्डल, मध्यप्रदेश ग्वालियर,  
समस्त संभागायुक्त,  
समस्त विभागाध्यक्ष,  
समस्त कलेक्टर,  
समस्त मुख्य कार्यपालन अधिकारी, जिला पंचायत  
मध्यप्रदेश

विषय:-रिट पिटीशन क्र. 12748/2009-विवेक कुमार लखेरा वि.शासन एवं अन्य में पारित  
निर्णय का पालन-अनियमित नियुक्ति के मामलों में त्वरित कार्यवाही।

रिट पिटीशन क्र. 12748/2009-विवेक कुमार लखेरा विरुद्ध शासन एवं अन्य में  
माननीय उच्च न्यायालय जबलपुर द्वारा पारित निर्णय दि. 23.08.2011 की प्रति संलग्न है।  
न्यायालय आदेश में, ऐसे प्रकरण जिनमें नियमों की अवहेलना करते हुए नियुक्ति/  
संविलियन/पदोन्नति आदि दी गयी है, में निम्नानुसार आदेश पारित किया है:-

"Whether an appointment is alleged to be illegal or contrary to the rules or dehors the rules, a mere show cause notice is issued to justify such appointment, and the reply is considered for examining whether the appointment was in accordance with or was in violation of the service rules. We may also point out here that if against any such employee, there are allegations of misconduct also in addition to the above irregularity in appointment, the same should not be mixed up as it might cause avoidable delay. Prompt action with regard to the appointments is desirable, if they are irregular. Delay would mean that such employee undesrvedly continues in public employment."

4- कृपया मा. उच्च न्यायालय के उपरोक्त निर्देशों का कडाई से पालन किया जाना सुनिश्चित करें।

  
(वीणा घाणेकर)  
सचिव

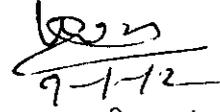
मध्यप्रदेश शासन  
सामान्य प्रशासन विभाग

19-1-12

पृ.क्र. सी-6- 6/2011-3-एक,  
प्रतिलिपि,

भोपाल, दिनांक ~~दिसम्बर, 2011~~

1. रजिस्ट्रार जनरल, उच्च न्यायालय, मध्य प्रदेश जबलपुर
2. सचिव, लोकायुक्त, मध्य प्रदेश भोपाल
3. सचिव मध्य प्रदेश लोक सेवा आयोग इन्दौर
4. महानिदेशक प्रशासन अकादमी मध्य प्रदेश भोपाल
5. राज्यपाल के सचिव, मध्य प्रदेश राजभवन भोपाल
6. प्रमुख सचिव, मध्य प्रदेश विधान सभा सचिवालय, भोपाल
7. प्रमुख सचिव/सचिव, मुख्य मंत्री, मुख्य मंत्री सचिवालय मध्य प्रदेश, भोपाल
8. मंत्री/राज्य मंत्रीगण के निज सचिव/निज सहायक, मध्य प्रदेश भोपाल
9. मुख्य निर्वाचन पदाधिकारी, मध्य प्रदेश, भोपाल
10. सचिव, मध्य प्रदेश राज्य निर्वाचन आयोग भोपाल
11. अध्यक्ष, व्यावसायिक परीक्षा मंडल, मध्य प्रदेश, भोपाल
12. महाधिवक्ता/उप महाधिवक्ता, मध्य प्रदेश उच्च न्यायालय, खण्डपीठ इन्दौर/ ग्वालियर/ जबलपुर ।
13. महालेखाकार, मध्य प्रदेश, ग्वालियर/ भोपाल
14. प्रमुख सचिव/सचिव/उप सचिव, सामान्य प्रशासन विभाग मंत्रालय भोपाल ।
15. उप सचिव/अवर सचिव, स्थापना/अधीक्षण /अभिलेख /मुख्य लेखाधिकारी मध्य प्रदेश, मंत्रालय भोपाल ।
16. मुख्य सचिव के अपर सचिव, मंत्रालय भोपाल
17. आयुक्त जनसंपर्क संचालनालय, मध्य प्रदेश भोपाल
18. सचिव, मध्य प्रदेश राज्य सूचना आयोग निर्वाचन भवन द्वितीय मंजिल भोपाल ।
19. अध्यक्ष, मध्य प्रदेश राज्य कर्मचारी कल्याण समिति भोपाल
20. अध्यक्ष, शासन के समस्त मान्यता प्राप्त कर्मचारी संघ भोपाल ।

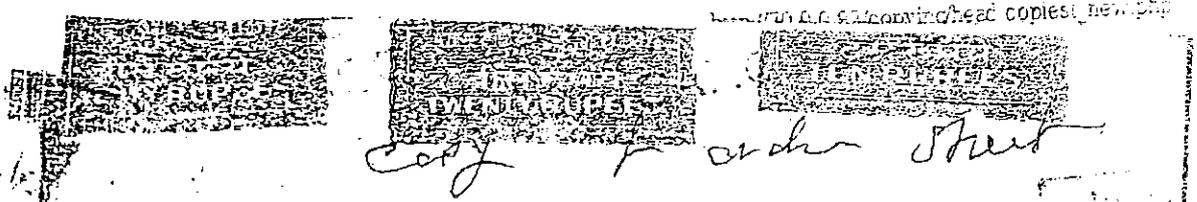
  
9-1-12

(कमला अजीतवार)

अवर सचिव

मध्यप्रदेश शासन

सामान्य प्रशासन विभाग



copy for order sheet

Form No. 8  
(Chapter X, Rule 27)

**IN THE HIGH COURT OF MADHYA PRADESH PRINCIPAL  
SEAT AT JABALPUR**

**WRIT PETITION NO. 12746 OF 2009 (P.L.L.)**

मध्य प्रदेश शासन  
विद्युत विभाग (विद्युत-कार)  
दो.क. 13/8  
दिनांक 4/9/2009

**PETITIONER**

Vivek Kumar Lakhera, Aged about 27 years, S/o Shri Vijay Kumar Lakhera, Occupation- Advocate, R/o H.No. 824, Hanumantal, Jabalpur (M.P.).

Presented on 26/11/09  
By A. Srivastava  
Prasol. 11/11/09

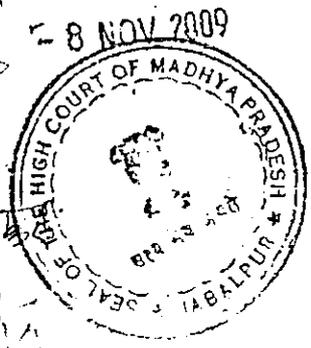
**VERSUS**

**RESPONDENTS**

1. State of Madhya Pradesh, Through the Chief Secretary, Vallabh Bhawan, Mantralaya, Bhopal (M.P.).
2. Vidhan Sabha Secretariat, through its Secretary, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
3. Shri Anand Kumar Pyasi, Additional Secretary, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
4. Smt. Arti Sharma, Lower Division Clerk, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
5. Shri Vinod Kumar Chaturvedi, Lower Division Clerk, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
6. Shri Abdul Hamid, Lower Division Clerk, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
7. Shri Laxman Prasad Mishra, Lower Division Clerk, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).

cc  
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955/05  
69.  
22/11/09  
2/11/09  
2/11/09  
2/11/09



2/11/09  
4/9/2009



(A)



8. Shri Ajay Tiwari, Lower Division Clerk, , Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
9. Shri Vanspati Sharma, Assistant Marshall, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
10. Shri Vinod Kumar Mishra, Security Guard, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
11. Shri Satya Naryaan Sharma, Deputy Secretary, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
12. Shri Ramshankar, Deputy Secretary/Personal Secretary to the Hon'ble Speaker, Madhya Pradesh Vidhan Sabha, Bhopal (M.P.).
13. Shri Kamlakant Sharma, Anubhag Adhikari, Madhya Pradesh, Vidhan Sabha, Bhopal (M.P.).

NOV 2011  
3 NOV 2011

(Regular Public Interest Litigation Petition)

1. Particulars of the cause/order against which the petition is made:

Subject-matter in brief: The petition is not made against any particular order but for issuance of appropriate writ, order and/or direction to take appropriate action against the respondent Nos. 3-13 who have been illegally appointed in service without having requisite qualification and without following the procedure for recruitment. The petition is also for the appropriate order to direct the respondents to enquire into the matter and to take necessary steps against the responsible persons.

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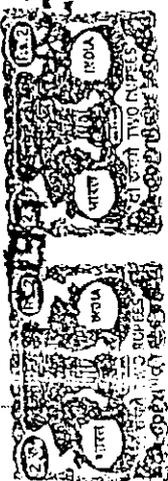
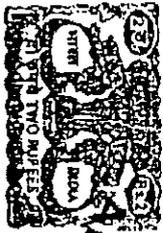
# HIGH COURT OF MADHYA PRADESH

ORDER SHEET

CASE No. ...., 201.....

..... Vs. ....

DATE OF THE ORDER	ORDER
	<p style="text-align: center;"><u>W.P. No.12748/2009</u></p> <p><u>23/8/2011</u></p> <p>We have heard Shri Arvind Shrivastava, learned counsel for the petitioner, Shri Kumaresh Pathak, learned Deputy Advocate General for the respondent No.1 and 2 and Shri R.N. Singh, learned senior counsel with Shri V. Johri, Advocate, for the respondent No.3.</p> <p>It has alleged by the learned counsel for the <i>Vidhan Sabha</i> that the respondent No. 3 has already retired, and some other employees against whom the allegations of absorption/appointment/promotion in violation of the rules have been made, have also ceased to be in employment. However, it is conceded that some of such employees are still continuing in employment.</p> <p>It has been brought to our notice that charge-sheets for departmental inquiry have been issued to some of such employees. We have not been shown the justification for such action on the part of the <i>Vidhan Sabha</i> because normally such departmental charge-sheets are issued in cases of misconduct where charges are required to be proved by evidence in the departmental inquiry. Whether an appointment is alleged to be illegal or contrary to the rules or <i>dehors</i> the rules, a mere show cause notice is issued to justify such appointment, and the reply is considered for examining whether the appointment was in accordance with or was in violation of the service rules. We may also point out here that if against any such employee there are allegations of misconduct also in addition to the above irregularity in appointment, the same should not be</p>



6



# HIGH COURT OF MADHYA PRADESH

## ORDER SHEET

CASE No. .... 201 .....

..... Vs. ....

DATE OF THE ORDER	ORDER
YS/	<p>mixed up as it might cause avoidable delay. Prompt action with regard to the appointments is desirable, if they are irregular. Delay would mean that such employee undeservedly continues in public employment.</p> <p>Accordingly, as prayed by the learned counsel for the <i>Vidhan Sabha</i>, the matter be listed again immediately after four weeks to enable the <i>Vidhan Sabha</i> to examine the law on the point and to either justify the action by way of charge-sheets or initiate such proper action as may be called for.</p> <p>C.C. as per rules</p> <p><i>[Signature]</i> (Sushil Harkauli) Acting Chief Justice</p> <p><i>[Signature]</i> (K.K. Trivedi) Judge</p> <p><b>TRUE COPY</b> Head Copy let. High Court of Madhya Pradesh JABALPUR</p>