

1 W.P. No. 9096 of 2024

IN THE HIGH COURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G.S. AHLUWALIA

ON 20th DAY OF MAY 2025

WRIT PETITION No. 9096 OF 2024

Dr. (MRS) ANURADHA GUPTA

VS.

STATE OF M.P. AND OTHERS

Appearance :

Shri D.P. Singh, Counsel for Petitioner

Respondents No. 1 to 4 by Shri S.S. Kushwaha, Govt. Advocate ;

Respondent No. 5 and Shri Sangh Priy, by Shri Gaurav Mishra, Advocate ;

Respondent No. 6 by Shri Pawan Dwivedi ;

Smt. Rajni Shukla, Shri Vijay Raj, Shri Munish Sikarwar, Shri Sunil Kumar Chauhan, Shri Vaibhav Shrivastava, Shri Bhanu Pratap Singh Tomar by Shri Harish Dixit Senior Advocate with Shri Parth Dixit ;

Shri Anil Kumar Dubey, Shri Rajesh Khare, Shri Pramod Pal, Smt. Snehlata Parmar, Shri Stendra Singh, Smt. Rupali Arya, Shri Prashant Rao, Smt. Ritu Agrawal, Smt. Sheetal Dandotiya, Shri Hemant Kushwah, Shri Jitendra Singh Baghel, Shri Brijendra Singh Kirar, Ms. Nikita Sharma, Shri Abhishek Sharma, Shri Vivek Shrivastava, Smt. Shalini Gupta, and Smt. Ruchi Yadav, by Shri M.P. S. Raghuvanshi, Senior Advocate with Shri D.S. Raghuvanshi, Advocate ;

Shri Amar Satya Gupta, Shri Rajkumar Koshta, Shri Rajendra Singh Vikram, Shri Dharnendra Singh Parmar, Shri Deependra Sengar, Shri Ankit Sharma, Shri Vivek Tyagi, Shri Jitendra Singh Rajawat, Shri Mahesh Pratap Singh Sikarwar, and Shri Kuldeep Parashar by Shri Ashok Dohare, Advocate ;

Shri Santosh Sharma, Shri Ajeet Jain by Shri Shyam Sharma, Advocate ;

Smt. Salini Singh, Smt. Pooja Mehkali, Ms. Tanuja Verma, Ms. Suruchi Bansal, and Smt. Sapna Chauhan by Shri Prashant Sharma, Advocate ;

Shri Ashish Rajput, Shri Vishal Garg, Shri Ashok Kumar Gupta, and Shri Ravi Gondia by Shri Dharmendra Nayak Advocate ;

Shri Anil Chauhan, Shri Dharmendra Dhakad, Shri Jagan Agrawal, Shri Dinesh Jatav, Shri Rahul Dhoroliya, Shri Sachin Savita, Ms. Sonali Dwivedi by Shri Ankur Maheshwari ;

Smt. Varsha Mishra by Shri S.K. Sharma, Advocate ;

Shri Abhishek Singh Bhadauriya, Shri Bhupendra Sasode, Smt. Girishma Arya, Smt. Priyanka Dwivedi, by Shri Nirmal Sharma Advocate ;

Smt. Renu Tomar by Shri Sanjay Kumar Mishra Advocate ;

Shri Ramendra Singh Gurjar, by Shri Kamlesh Kori, Advocate ;

Shri Sandeep Mishra, by Shri Sameer Shrivastava, Advocate ;

None for Dr. Dinesh Dixit, though served.

Heard On : 07-5-2025

Delivered On : 20-5-2025

1. This Petition under Article 226 of Constitution of India has been filed seeking the following relief :

“i) That, the order impugned dated 04.08.2023 contained in Annexure — P/1 issued by the Respondent no. 1 may kindly be quashed with a further the consequential order dated 18.08.2023 contained in Annexure — P/2 may also be quashed, in accordance with rules.

(ii) Cost of the petition be awarded or any other order or direction deemed fit in the circumstances of the case be issued in the favour of the Petitioner.”

2. By this petition, the Petitioner had challenged the posting of respondent no. 6 Dr. Anuj Sharma as Health Officer on deputation. It was also the case of

the petitioner that as many as 61 persons who are not eligible to be sent on deputation are working in Municipal Corporation, Gwalior on deputation.

3. While the hearing of the case was going on, it was brought to the notice of this Court, that even Dr. Dinesh Dixit, who is a veterinary Doctor, has also been posted on deputation on the post of Dy. Commissioner. As shocking facts were coming on record, therefore, this Court by order dated 16-4-2025, issued notice to all the persons who are working/posted on deputation/transfer on deputation in Municipal Corporation, Gwalior to show cause as to why their deputation may not be cancelled and why they may not repatriated to their original department.

4. The order dated 16-4-2025 was challenged by State of M.P, Principal Secretary Department of Veterinary Services and Animal Husbandry, Commissioner, Municipal Corporation and Director Veterinary Services and Animal Husbandry by filing W.A. No. 1324 of 2025 and by Municipal Corporation Gwalior by W.A. No. 1329 of 2025.

5. The aforesaid W.A.s were dismissed by Division Bench of this Court by order dated 1-5-2025 which reads as under :

“Heard on admission.

2. The instant appeal is preferred by appellants being crestfallen vide interim order dated 16/04/2025 passed in WP No. 9096/2024 whereby during the course of hearing, learned writ Court issued notice to 61 persons who were allegedly working in Municipal Corporation, Gwalior on deputation.

3. Precisely stated facts of the case are that respondent No.1- Dr. Anuradha Gupta filed a petition i.e. WP No. 9096/2024 for issuance of writ of quo warranto against respondent No.3- Dr. Anuj Sharma on the ground that respondent No.3 is Veterinary Surgeon and he can not be appointed on the post of Assistant Sanitary Officer/Health Officer. He does not bear qualification of

MBBS, as required in the Madhya Pradesh Municipal Corporation (Appointment and Condition of Service of Officers and Servants) Rules, 2000.

4. Respondents of writ petition (State of M.P., Municipal Corporation, Gwalior and private respondent) filed their respective reply and contested the case. It was the case of State Government that Rules have been amended and thereafter, Sanitary Officer/Health Officer/ Veterinary Officer are clubbed in a manner whereby in a city with more than five lacs population over population of every two Lacs, one Health Officer can be appointed. In Municipal Corporation, where population exceeds Five Lacs, two Veterinary Doctors can be appointed. A document Annexure P-7 was filed in this regard. Therefore, sheet anchor of case of the State of M.P. is that the amendment was caused in the Rules and amalgamation of cadre of Sanitary Officer/Health Officer/Veterinary Doctor is carried out. Therefore, order of deputation of respondent No.3 herein (respondent No.6 in writ petition) was just and proper.

5. During course of arguments, it was submitted by the counsel for appellants-State/ counsel for State in WA No. 1329/2025 and private respondents, especially respondent No.3 in present writ appeal that it is a motivated petition. Now, private respondents have already been removed from Municipal Corporation, Gwalior and posted at Sagar, therefore, very purpose of filing of quo warranto is over. It is further informed that another similarly placed employee, namely, Dr. Upendra Yadav, was also Veterinary doctor but appointed as Assistant Sanitary Officer (Erstwhile Health officer) and very cleverly his appointment has not been challenged in writ petition, but appointment of only

respondent No.3-Dr. Anuj Sharma is being challenged. This itself indicates the motive.

6. Learned counsel for State also raised point that Dr. Anuradha Gupta shall have to amend the pleadings in respect of 61 employees who have been put to notice by learned writ Court and apprehension is raised by appellants that petition may be withdrawn by petitioner midway because purpose of filing the motivated petition is over.

7. Learned counsel for respondent No.1 countered the arguments and specifically submits that petition shall not be withdrawn and petitioner therein shall amend the pleadings in respect of Dr. Upendra Yadav also and against those 61 officers/employees who are being put to notice by learned Writ Court and they have to appear before the learned Writ Court on the next date of hearing. Petitioner therein would contest the case in respect of these 61 officers also. Petitioner would show her bonafides.

8. At this stage, when this Court referred the impugned order which is interim in nature and writ petition is still pending, then, counsel for appellants/State fairly submits that if these aspects as referred above are considered before the learned Writ Court, then they be permitted to raise all these grounds before the learned Writ Court only so that adjudication can be held before learned Writ Court meaningfully and effectively.

9. Counsel for respondents are in unison in respect of such submissions.

10. Considering the submissions and prayer so made, this writ appeal stand disposed of raising expectation from all the litigants to complete their pleadings dispelling the apprehension of rival parties and after completion of pleadings, it is requested to

learned Writ Court that after considering the rival submissions and additional pleadings, writ petition be heard finally on its own merits.

11. With the aforesaid, instant appeal stands disposed of.

6. It is not out of place to mention here that although I.A. No. 4951 of 2025 was filed by the Petitioner in the light of direction given by Division Bench of this Court, but did not implead Dr. Upendra Yadav. Although the respondent no. 6 in his return which was filed vide Document No. 4596 of 2025 had claimed that Dr. Upendra Yadav has also been posted as Sanitary Officer and he is also not having the degree of MBBS, but only the posting of the respondent no. 6 has been challenged therefore, the petition is a motivated one. However, during the course of arguments, it was admitted by Shri Pawan Dwivedi, Counsel for respondent no. 6 that Dr. Upendra Yadav has been appointed and has not been sent on deputation. Thus, it is clear that Dr. Upendra Yadav is the employee of Municipal Corporation, Gwalior. This Court is dealing with the cases of those employees who have been sent on deputation or transfer on deputation. In the present case, this Court has nothing to do with the direct appointment of any person, therefore, did not issue any notice to Dr. Upendra Yadav. Even the petitioner in her I.A. No. 4951 of 2025 has not impleaded Dr. Upendra Yadav. Therefore, this Court would not consider the eligibility of Dr. Upendra Yadav to hold the post on which he has been appointed by the Municipal Corporation, Gwalior. Therefore, the question of eligibility of Dr. Upendra Yadav is left open.

7. There is another important aspect of the matter. On 16-4-2025, it was informed by Shri D.P. Singh, Counsel for Petitioner, that one Dr. Dinesh Dixit who is a Veterinary Doctor has been sent on deputation on the post of Dy. Commissioner. Thereafter, Shri D.P. Singh made a statement on 2-5-2025 that by order dated 28-4-2025, Dr. Dinesh Dixit has been repatriated back to his parent department. However, this Court observed, that “the State Government

shall justify its act of sending Dr. Dinesh Dixit on deputation to Municipal Corporation, Gwalior.”

8. As already pointed out, the Division Bench of this Court by order dated 1-5-2025, had directed the Petitioner, to implead all 61 employees of Municipal Corporation who are working on deputation, but still the petitioner did not implead Dr. Dinesh Dixit as respondent.

9. During the course of arguments, it came to light that earlier also, Dr. Dinesh Dixit was repatriated and the order of repatriation has been challenged by Dr. Dinesh Dixit by filing W.P. No. 7250 of 2024. It is not out of place to mention here that Shri D.P. Singh, Advocate is the Counsel of Dr. Dinesh Dixit. Although, Shri D.P. Singh had provided the copy of repatriation order dated 28-4-2025, but did not disclose to the Court, that earlier also, Dr. Dinesh Dixit was repatriated and his writ petition i.e., W.P. No. 7250 of 2024 is pending and he himself is the Counsel for Dr. Dinesh Dixit.

10. It is true that originally, the case of Dr, Dinesh Dixit was not involved, therefore, there was no impediment for Shri D.P. Singh, Advocate to file this petition, but the moment, this Court issued notice to Dr. Dinesh Dixit, then Shri D.P. Singh, Advocate should have withdrawn himself from this case as the notice was also issued to Dr. Dinesh Dixit and there would be a conflict of interest of Dr. Dinesh Dixit. But Shri D.P. Singh, Advocate did not withdraw himself but also did not inform that he is already the Counsel for Dr. Dinesh Dixit. Further more, in compliance of order dated 1-5-2025, the petitioner was directed to implead all employees who are on deputation, but still Dr. Dinesh Dixit was deliberately not impleaded as party. Thus, it is clear that every attempt was made to protect the interests of Dr. Dinesh Dixit. It is really unfortunate that Shri D.P. Singh, Advocate, on one hand was pleading that Veterinary Doctor Anuj Sharma has no competence/eligibility to hold the post of Health Officer, and at the same time, by not impleading was protecting the interest of Dr. Dinesh Dixit, who is working as Deputy Commissioner.

11. However, this Court by order dated 2-5-2025 had specifically held that State Govt. should justify its “act of sending Dr. Dinesh Dixit on deputation to Municipal Corporation, Gwalior” and notice was also issued to Dr. Dinesh Dixit by order dated 16-5-20205 and he has also been served with the notice, but neither engaged any lawyer nor appeared in person therefore, he is declared exparte.

12. Before the considering the individual cases of every noticee who is working on deputation/transfer on deputation in Municipal Corporation, Gwalior, as well as respondent no. 6, this Court would like to consider the submissions made by the Counsel for the parties with regard to authority of the State Govt. to send the employees on deputation or transfer on deputation.

13. This Court on various dates passed the following orders :

“Dated 13-3-2025

By this petition, petitioner has sought a writ in the nature of quo warranto by challenging the posting of respondent No.6 in Municipal Corporation, Gwalior as a Health Officer on the ground that respondent No.6 is a veterinary doctor and he has been asked to work as Health Officer in Municipal Corporation, Gwalior. In fact State Government by posting respondent No.6 as a Health Officer, Municipal Corporation, Gwalior has treated the residence of Gwalior as animals who are to be looked after by the veterinary doctor.

Be that whatever it may be.

Respondent No.5 has filed its return and claimed that since, respondent No.6 has been posted by State Government, therefore, it has given the NOC.

Respondent No.6 has not filed the return, although, he had filed his Vakalatnama on 03/05/2024. Therefore, it is clear that respondent No.6 is deliberately avoiding the filing of his Vakalatnama because he may not be in a position to justify his posting and may not be in a position to counter the arguments of counsel for petitioner that the residence of Gwalior are being treated as animals. Furthermore, the counsel for respondent No.6 was

granted time on 02/12/2024 and 18/12/2024 to file return, but the return has not been filed.

In spite of multiple opportunities, even State has not filed the return.

This Court is of considered opinion that prima facie case has been made out by petitioner for issuance of interim order. Accordingly, it is directed that respondent No.6 shall immediately stop functioning as Health Officer, Municipal Corporation, Gwalior.

Respondent No.1 to 4 are directed to positively file their return pointing out the reasons behind posting of respondent No.6 as a Health Officer in Municipal Corporation, Gwalior.

Since, respondent No.6 was earlier posted in Veterinary Hospital, Sagar and from there he was transferred as Health Officer, Municipal Corporation, Gwalior, therefore, it is directed that respondent No.6 shall discharge his duties in Veterinary Hospital, Sagar irrespective of the fact as to whether there is any vacant post or not ?

If the State Government finds difficult to disburse the salary of respondent No.6 from Veterinary Hospital, Sagar, then State Government is free to post him in any Veterinary Hospital of State of M.P. except in District Gwalior.

List on 19/03/2025.

If the return is not filed, then this Court may direct for personal appearance of respondents No.1 to 4 and 6.

Dated : 19-03-2025

It is the case of petitioner that there is no post like Health Officer in the Municipal Corporation. Earlier the post was known as Health Officer but now it has been redesignated as Chief Sanitary Officer. The said post is to be filled up by 100% promotion from the post of Sanitary Officer and the post of Sanitary Officer is to be filled up by 100% promotion from the post of Assistant Sanitary Officer. Minimum qualification for the post of Assistant Sanitary Officer is MBBS. Respondent No.6 is not MBBS and therefore, he was not entitled to hold the post of Health Officer or in other words Chief Sanitary Officer.

Respondent No.3 has filed return and submitted that vide letter dated 31.05.2023 Urban Administration and Housing Department sought information regarding vacancy, pay scale and consent of respondent No.3 for deputation of Dr. Anuj Sharma to the post of Health Officer. Respondent No.3 apart from furnishing the other information also gave a No Objection Certificate. Accordingly, by order dated 04.08.2023 Dr. Anuj Sharma was deputed to the post of Health Officer in the department of Urban Administration and Development and by order dated 18.08.2023 he was sent on deputation to the Municipal Corporation, Gwalior on the post of Health Officer. Thus, it is the stand of respondent No.3 that entire exercise was done at the behest of Department of Urban Administration and Development.

Respondents No.1 and 2 have filed their return. However, it is made clear that manner in which return has been filed, is also really shocking. The OIC has signed general index as OIC of respondents No.1 and 2 whereas cause title of return says that it is short return on behalf of respondent No.2 i.e. Principal Secretary, Department of Veterinary Services and respondent No.4 i.e. Director Veterinary Services and Animal Husbandry. Thereafter, return has been signed by OIC in the capacity of OIC of respondents No.1 and 2. Affidavit has been filed by Dr. R.K. Tyagi by claiming himself to be the OIC of the case, but he has not clarified as to whether he has signed that affidavit in the capacity of OIC on behalf of respondents No.2 and 4 or respondents No.1 and 2.

Be that what ever it may be.

In this return, entire burden has been put on the State. Respondents have filed a copy of letter dated 02.02.2023 written by Urban Administration and Development Department which was written to the Principal Secretary, Veterinary Services and Animal Husbandry asking him to provide certain information for posting of Dr. Anuj Sharma on deputation. Accordingly, Under Secretary of State of Madhya Pradesh, Veterinary Services and Animal Husbandry gave his report. Thus, respondents No.2 and 4 have tried to put the entire burden on respondents No.1 and 3. Respondents No.1 and 3 have not filed their return.

However, one thing is clear that respondent No.6 was posted against a non-existing post that too when he is not holding the MBBS degree.

Petitioner has filed copy of letter dated 14.05.2020 written by Administrator Municipal Corporation, Gwalior for repatriation of various officers who were posted on deputation. From this letter, it appears that as many as 62 officers/employees have been posted in Municipal Corporation, Gwalior on deputation. The manner in which respondent No.6 was sent on deputation on nonexisting post, specifically when he was not holding the minimum qualification also speaks in volumes about manner of posting certain officers on deputation.

Accordingly, respondent No.5 is directed to file detailed return pointing out the details of officers who are working on deputation including the period of their posting. Respondent No.5 shall also point out that how many employees of Municipal Corporation are actually working in the Municipal Corporation and why the Municipal Corporation is not taking any steps to make regular appointments. Further respondent No.5 shall also point out as to why the employees who are on deputation are not being repatriated.

Counsel for respondents No.1 and 3 is granted last opportunity of two weeks' to file detailed return and respondents No.1 and 3 is also directed to explain as to what prompted them to initiate the proceedings for sending respondent No.6 on deputation to the Municipal Corporation, Gwalior. The entire record be produced on the next date of hearing.

If the proceedings were initiated on the application of respondent No.6, then copy of said application shall also be filed alongwith the return. Respondents No.1 to 5 are also directed to clarify as to how they can post a veterinary doctor against post for which the minimum qualification is MBBS. Although a veterinary doctor was posted as a Health Officer/Sanitary Officer in the Municipal Corporation, Gwalior, but still numbers of dog bites were alarming and even small kids have suffered severe dog bites.

It is submitted by counsel for respondent No.5 as well as respondent No.6 that by virtue of order dated 13.03.2025, respondent No.6 has been relieved. Under hope and belief that he shall not be sent on a deputation to any corporation for which he is not holding the requisite qualification, interim order dated 13.03.2025 shall continue till final disposal of this case.

Dated : 07-04-2025

It appears that respondents have filed their return, but it appears that they are trying to play jugglery of words with the Court that shows that intention of respondents is not honest.

This Court had directed on 19/03/2025 that the respondents must file a detailed return pointing out the details of officers who are working on deputation including the period of their posting. It appears that respondents are trying to bifurcate the word "deputation" in various different categories. However, the concern of this Court is about the total number of employees who were appointed as per provisions of Section 58 of M.P. Municipal Corporation Act and not with regard to those persons who successfully got themselves transferred or appointed or absorbed on deputation in the Municipal Corporation, Gwalior. Whatever category of deputation may be, this Court would take the said category as a single category i.e. "deputation", therefore, the Municipal Corporation must give details of employees who were originally appointed as an employee of Municipal Corporation as per the provisions of Section 58 of M.P. Municipal Corporation Act and not the persons who were originally appointed in different departments but for any good or bad reason they successfully got themselves transferred to Municipal Corporation, Gwalior in the name of deputation (whatsoever category of deputation may be).

Accordingly, counsel for respondents prays for a day's time to prepare a fresh list and file fresh affidavit to point out the details of only those employees who were originally appointed as an employee of Municipal Corporation as per provisions of Section 58 of Municipal Corporation Act.

Respondents No.1 and 3 have maintained beautiful silence. This act of respondents No.1 and 3 cannot be appreciated. On one hand the city of Gwalior is suffering from excessive dog bites on account of which small kids of the city are getting badly injured as well as air of Gwalior city is one of the most polluted air of cities of the country and the city of Gwalior also could not come nearer to category of clean city, therefore, the silence maintained by respondents No.1 to 3 is really shocking and disturbing.

Accordingly, respondents No.1 and 3 are also directed to file their response positively by tomorrow because sufficient time has already been granted to them by order dated 19/03/2025. In case if the response is not filed, then this Court may direct the personal appearance of respondent No.3 to answer the queries.

List on 09/04/2025.

Dated : 09-04-2025

In compliance of order dated 07.04.2025, Shri Gaurav Mishra, counsel for municipal corporation has informed the total sanctioned post of each and every post as per the Madhya Pradesh Municipal Corporation (Appointment and Conditions of Service of Officers and Servants) Rules, 2000 (in short "Rules, 2000"). The mode of filling up those posts have already been given in the schedule appended to the Rules. Shri Mishra also pointed out the number of posts which have been occupied by the employees of the municipal corporation as per the provision of Section 58 of M.P. Municipal Corporation Act, 1956 (in short "Act, 1956") as well as number of posts which are lying vacant and also number of persons who are on deputation. However, it is fairly conceded by Shri Mishra that he has done the homework by anticipating that this Court might put this question to him with regard to the minute details, therefore, he has prepared the aforesaid information on his own with the help of officers but in case if any mistake is found, then he reserves his right to correct the same. The amount of homework done by Shri Mishra is appreciated and it is put on record accordingly.

2. Since the information which has been supplied by Shri Mishra during the course of argument was prepared by him without any order from the court, therefore, right of Shri Mishra to correct the mistake, if any, is hereby reserved and if the municipal corporation finds that any of the information verbally supplied to the court requires modification, then municipal corporation shall have every right to file an application for correction of today's order with regard to the details of the sanctioned post, vacant post, post hold by employees appointed as per the provisions of Section 58 of the Act, 1956 and the number of persons who are on deputation.

3. The information given by Shri Mishra is reduced in tabular form which is as under :-

S.No	Designation	Direct Recruitment	By promotion	By deputation	Total Sanctioned posts	Occupied by/vacant
1	Commissioner				1	Deputation
2	Add. Commissioner	Nil	50.00%	50.00%	2	4 are working on Deputation, whereas only 1 could have been

						posted on deputation
3	Deputy Commissioner	Nil	50.00%	50.00%	7	1 on deputation
4	Asstt. Commissioner	50.00%	50.00%	Nil	13	2 working on deputation, whereas they could not have been posted on deputation
5	Office Superintendent	Nil	100.00%	Nil	11	All vacant
6	Public Relations Officer	Nil	100.00%	Nil	1	All vacant
7	Assistant Public Relations Officer	100.00%	Nil	Nil	1	All vacant
8	Librarian	Nil	100.00%	Nil	1	All vacant
9	Assistant Librarian	100.00%	Nil	Nil	2	All vacant
10	Chief Law Officer	Nil	100.00%	Nil	1	All vacant
11	Law Officer	Nil	100.00%	Nil	2	All vacant
12	Asstt. Law Officer	Nil	100.00%	Nil	4	1 on deputation 1 employee of M.C. Gwalior
13	Sports Officer	Nil	100.00%	Nil	1	Employee of M.C. Gwalior
14	Asstt. Sports Officer	100.00%	Nil	Nil	2	2 Employees of M.C. Gwalior
15	Asstt. Grade I	Nil	100.00%	Nil	20	All vacant
16	Asstt. Grade II	Nil	100.00%	Nil	60	4 are employees of M.C. Gwalior 1 on deputation 55 vacant
17	Asstt. Grade III	75.00%	25.00%	Nil	179	66 employees of M.C. Gwalior 10 on deputation 103 vacant
18	Stenographer Grade I	Nil	100.00%	Nil	2	All vacant
19	Stenographer Grade II	Nil	100.00%	Nil	3	All vacant
20	Stenographer Grade III	100.00%	Nil	Nil	7	6 are employees of M.C. Gwalior

						2 on deputation
21	Peon	33% 67% on contract	181	Nil	181	122 employees of M.C. Gwalior 59 vacant
22	Watchman	100.00%	Nil	Nil	25	31 employees of M.C. Gwalior
23	Chief Fire Officer	Nil	100.00%	Nil	1	All vacant
24	Fire Officer	Nil	100.00%	Nil	2	All vacant
25	Asstt. Fire Officer	50.00%	50.00%	Nil	4	1 employee of M.C. Gwalior Namely Umang Pradhan against whom criminal case on account of death of multiple employees of M.C. Gwalior was registered
26	Leading Fire Men	33% 67% on contract	Nil	Nil	6	All vacant
27	Fireman	33% 67% on contract	Nil	Nil	72	5 employees of M.C. Gwalior 65 vacant
28	Chief Engineer	Nil	50.00%	50.00%	1	All vacant however, a retired officer has been given extension
29	Superintending Engineer (Civil)	Nil	100%	Nil	1	All vacant
	(Park and Public Welfare)	Nil	100%	Nil	2	All vacant
30	Executive Engineer (Water supply and Sewerage)	Nil	100.00%	Nil	2	All vacant
	(Part and Public Welfare)				4	All vacant
	(Electrical Deptt)				2	All vacant
31	Asstt. Engineer (Water supply and Sewerage)	50.00%	50.00%	Nil	4	All vacant
	(Part and Public				11	3 employees of

	Welfare) (Electrical Deptt)				3	M.C. Gwalior 1 on deputation 7 vacant All vacant
32	Sub Engineer	95.00%	5.00%	Nil		
33	Chemist	100.00%	Nil	Nil	2	2 employees of M.C. Gwalior
34	Garden Superintendent	Nil	100.00%	Nil	1	1 employee of M.C. Gwalior
35	Garden Inspector	25.00%	75.00%	Nil	2	All vacant
36	Garden Supervisor	50.00%	50.00%	12	12	6 employees 6 vacant
37	Time Keeper	100.00%	Nil	Nil	43	7 employees of M.C. Gwalior 36 vacant
38	Gardner (Trained)	100.00%	Nil	Nil	21	All vacant
39	Revenue Officer	Nil	100.00%	Nil	2	All vacant
40	Asstt. Revenue Officer	50.00%	50.00%	Nil	4	1 employee of M.C. Gwalior 3 vacant
41	Chief Revenue Officer	Nil	100.00%	Nil	10	All vacant
42	Revenue Inspector	50.00%	50.00%	Nil	13	3 employees of M.C. Gwalior 10 vacant
43	Dy. Revenue Inspector	Nil	100.00%	Nil	26	3 employees of M.C. Gwalior 23 Vacant
44	Asstt. Revenue Inspectorc	100.00%	Nil	Nil	106	70 employees of M.C. Gwalior 13 on deputation 22 vacant
45	Accounts Officer	Nil	100.00%	Nil	1	1 on deputation
46	Asstt. Accounts Officer	50.00%	50.00%	Nil	2	1 vacant 1 on deputation
47	Accountant	Nil	100.00%	Nil	6	All vacant
48	Cashier/Accounts Asstt.	100.00%	Nil	Nil	12	7 employees of M.C. Gwalior 2 on deputation 3 vacant
49	Electrical Supervisor	Nil	100.00%	Nil	5	All vacant

50	Electrician	100.00%	Nil	Nil	11	1 employee of M.C. Gwalior 10 vacant
51	Driver (heavy vehicle) Class A	33% 67% on contract	Nil	Nil		
52	Driver (Light Vehicle) Class B	33% 67% on contract	Nil	Nil	11	19 employees of M.C. Gwalior
53	Chief Sanitary Officer	Nil	100.00%	Nil	1	All vacant
54	Sanitary Officer	Nil	100.00%	Nil	2	All vacant
55	Asstt. Sanitary Officer	50.00%	50.00%	Nil	5	All vacant
56	Chief Sanitary Inspector	Nil	100.00%	Nil	21	1 employee of M.C. Gwalior 20 vacant
57	Sanitary Inspector	50.00%	50.00%	Nil	43	10 employees of M.C. Gwalior 3 on deputation 13 vacant
58	Sanitary Supervisor	Nil	100.00%	Nil	85	13 employees of M.C. Gwalior 72 vacant
59	Deputy Sanitary Supervisor	50.00%	50.00%	Nil	142	56 employees of M.C. Gwalior 7 on deputation 79 vacant
60	Safai Sanrakshak (Sweeper)	33% 67% on contract	Nil	Nil	2134	748 employees of M.C. Gwalior 1386 vacant
61	Transport and Traffic Management Officer	Nil	100.00%	Nil	2	All vacant
62	Asstt. Transport and Traffic Management Officer	100.00%	Nil	Nil	4	All vacant
63	Chief Town Planner	Nil	100.00%	Nil	1	All vacant
64	Town Planner	Nil	50.00%	50.00%	1	All vacant
65	Asstt. Town Planner	100.00%	Nil	Nil	5	3 employees of M.C. Gwalior 2 vacant
66	Chief Encroachment	Nil	100.00%	Nil	1	All vacant

	Removal Officer					
67	Encroachment Removal Officer	100.00%	Nil	Nil	2	All vacant
68	Asstt. Encroachment Removal Officer	100.00%	Nil	Nil	12	1 employee of M.C. Gwalior 11 vacant
69	Chief IT Officer	Nil	100.00%	Nil	1	All vacant
70	E-Governance Officer	Nil	100.00%	Nil	3	All vacant
71	Asstt E-Governance Officer	100.00%	Nil	Nil	4	All vacant
72	Chief Comunity Development Officer	Nil	100.00%	Nil	2	All vacant
73	Community Development Organizer	Nil	100.00%	Nil	5	All vacant
74	Asstt. Community Development Organizer	50.00% 50% according to Rule 5	Nil	Nil	10	4 employees of M.C. Gwalior 6 vacant

4. From the information which has been given by Shri Mishra, it appears that as per Rules, 2000, certain posts cannot be filled up by deputation. However, in view of the verbal information given by Shri Mishra, it appears that some of the persons have been sent on deputation without there being any provision under the Rules, 2000. Furthermore, from the details of the employees who were appointed under Section 58 (1) of the Act, 1956, it is clear that all the employees are either of Class-III or Class-IV. All the top officials have been sent on deputation whereas according to the rules, either those posts are to be filled up by direct recruitment or by promotion and for some of the posts, 50% of the sanctioned strength can be filled up by deputation but more than what could have been done by the State are working in the Municipal Corporation, Gwalior. It was also found that where the sanctioned strength is more than one, only one or two persons are working and the remaining posts are vacant, meaning thereby that one or two officers are holding the charge of the entire municipal corporation, whereas, officers / employees were required to be appointed as per the sanctioned posts.

5. Section 58 of the Act, 1956 reads as under :-

"58. Appointment and condition of Service of Corporation officers and servants.-

(1) Subject to the rules made by the State Government in respect of the Set-up, Strength, Recruitment, Appointment, Pay-Scales, Allowances and other conditions of service of officers and servants of the Corporation, the Corporation shall appoint such officers and servants as may be necessary for the efficient performance of the functions of the Corporation:

Provided that-

(i) the power of appointing any person on a municipal post which carries a maximum scale of pay as the State Government may, from time to time, by an order in writing specify, shall vest in the Mayor-in-Council or the Commissioner;

(ii) any appointment made within his power by the Commissioner shall be reported for information to the Mayor-in-Council;

(iii) every appointment to be made by the Mayor-in-Council shall be subject to the prior confirmation of the State Government. The decision of the State Government in this behalf shall be final.

(2) Notwithstanding anything contained in sub-section (1), in emergent situations, the Mayor-in-Council may make adhoc appointments for a period not exceeding six months, with prior permission of the State Government.

(2-a) Notwithstanding anything contained in sub-section (1) and (2), the Mayor-in-Council may, with prior permission of the State Government, appoint on contract, specialist officers and servants in the field of management, accounts, information technology, engineering and planning for specified periods and the manner and terms and conditions of appointment of such specialist officers and servants on contract shall be such as may be prescribed by the State Government.

(3) The State Government may depute to any post under the corporation carrying maximum scale of pay as the State Government may, from time to time, by an order in writing specify such servants of the State Government as it may consider necessary.

Provided that in case of technical posts, the State Government may depute servants of any Town and Country Development Authority and Government Undertaking to any Municipal Corporation for a period of not exceeding one year.

(4) The terms and conditions of deputation of servants of the State Government, Town and Country Development Authority or Government Undertaking including disciplinary control shall be such as may be prescribed.

(5) Notwithstanding anything contained in this Act or any rules or

byelaws made thereunder, the State Government may, subject to the conditions specified in sub-section (6) transfer on deputation any officer or servant of a Municipal Corporation to any other Municipal Corporation and it shall not be necessary for the State Government to consult either the Corporation or the Officer or Servant concerned before passing an order of transfer on deputation under this sub-section.

- (6) The officer or servant transferred under sub-section (5) shall-*
- (a) have his lien on the post held in the parent Corporation;*
 - (b) not be put to disadvantageous position in respect of pay and allowances which he would have been entitled to had he continued in the parent Corporation;*
 - (c) be entitled to deputation allowances at such rate as the State Government may by general order specify; and*
 - (d) be governed by such other terms and conditions including disciplinary control as the State Government may, by general or special order, specify."*

6. Section 58 (3) of the Act, 1956 empowers the State Government to depute to any post under the corporation carrying maximum scale of pay by order in writing specifying such servants of the State as it may consider necessary. Accordingly, State Government is directed to clarify as to whether it can bypass the provisions of Rules, 2000 to send the employees on deputation for which there is no provision for filling up the post by deputation. The State Government shall also clarify that why the persons were sent on deputation and why Municipal Corporation, Gwalior was not directed to fill up the post by direct recruitment or by promotion as per the provisions of Rules, 2000.

7. By referring to letter dated 11.01.2022, it was submitted by counsel for municipal corporation that municipal corporation had sent the information of vacant post to Professional Examination Board but that does not mean that Municipal Corporation, Gwalior had ever made any requests for filling up the vacant post. Accordingly, Municipal Corporation, Gwalior is directed to ; (i) file a detailed reply as to why no steps were ever taken to fill up the vacant posts as per the provisions of Section 58 (1) of Act, 1956 and Rules, 2000, (ii) why Municipal Corporation, Gwalior allowed the persons to be posted on deputation in excess of the sanctioned post, (iii) why Municipal Corporation, Gwalior succumbed to the dictations of the State Government to accept the persons on deputation contrary to the Rules, 2000?

8. So far as the deputation of respondent No. 6 - Dr. Anuj

Sharma as Health Officer in Municipal Corporation, Gwalior is concerned, State counsel has produced the record pertaining to the deputation of Dr. Anuj Sharma to Municipal Corporation, Gwalior as Health Officer. The State has filed multiple returns but has deliberately suppressed the fact that notesheet had begun at the instance of the concerning minister and the notesheet of the concerning minister was also not filed along with any of the return.

9. It is submitted by counsel for State that first return was filed by respondents No. 1 and 3 on 22.03.2025 and since the record was in a sealed condition, therefore, the Office of Advocate General did not have any idea about the first notesheet which was written by the concerning minister and, therefore, there is no mention of said notesheet in the return. 10. Aforesaid submission made by counsel for State cannot be accepted. The record which has been produced in a sealed cover also contains an order dated 07.04.2025 written by Pramod Kumar Shukla, Deputy Secretary, State of M.P., Urban Administration and Housing Department, which is pasted on the envelope itself. Thus, it appears that the record must have been sealed on 07.04.2025, therefore, the short return which was filed by the State on 22.03.2025 cannot be said to have been filed in ignorance of the notesheet. On the said date, entire record was in an open condition. Furthermore, respondent No. 1 was required to file its return and for that purpose, if it has deputed somebody as O.I.C., then respondent No. 1 cannot run away from its liability by saying that the record was in a sealed condition.

11. Be that whatever it may.

12. One thing is clear that there is every possibility that the O.I.C. has suppressed the material fact from the court instead of clear direction given by this Court in para 9 of Order dated 19.03.2025 which reads as under :-

"9. Counsel for respondents No.1 and 3 is granted last opportunity of two weeks' to file detailed return and respondents No.1 and 3 is also directed to explain as to what prompted them to initiate the proceedings for sending respondent No.6 on deputation to the Municipal Corporation, Gwalior. The entire record be produced on the next date of hearing."

13. That is not the end of the matter. Today, additional return has been filed on behalf of respondent No. 1 and 3. Accordingly, Shri

Agrawal was directed to point out as to whether the complete facts with regard to the initiation of the proceedings for sending respondent No. 6 on deputation was placed on record or not. It was fairly conceded by Shri Agrawal that the fact that the proceedings had initiated on the basis of the notesheet written by concerning minister has been suppressed.

14. Be that whatever it may.

15. It is for the O.I.C. to answer the query as to why the material facts were suppressed by him inspite of the specific direction given by this Court in para 9 of the order dated 19.03.2025. Accordingly, Shri Anil Kumar Dubey, Additional Commissioner, Municipal Corporation, Gwalior is directed to clarify as to why in both the returns i.e. return filed on 22.03.2025 and return filed today, the correct facts have not been placed on record and why they have been suppressed and what was the intention behind said suppression.

16. From the records which have been placed by the respondents, it is clear that serious complaints were made against Dr. Anuj Sharma but no steps were taken to decide those complaints. Even the record contains a notesheet of Dr. R.K. Mehiya, Director, Veterinary Services and Animal Husbandry, Madhya Pradesh, Bhopal which reads as under :-

"विषय:- प्रतिनियुक्ति- डॉ.अनुज शर्मा, पशु चिकित्सा सहायक शल्यज्ञ, संभागीय पशु चिकित्सालय सागर।

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पूर्व पृष्ठ से निरंतर....

कृपया पूर्व पृष्ठ का अवलोकन करना चाहेंगे।

म.प्र. शासन, पशुपालन एवं डेयरी विभाग, मंत्रालय, भोपाल के पत्र क्रमांक 1/1/8/0004/2023-एसईसी -1 - 35 (एएनएच) भोपाल, दिनांक 12 अप्रैल 2023 में संलग्न माननीय मंत्रीजी पशुपालन एवं डेयरी म.प्र. शासन द्वारा डॉ अनुज शर्मा, पशु चिकित्सा सहायक शल्यज्ञ, संभागीय पशु चिकित्सालय सागर की सेवायें प्रतिनियुक्ति पर स्वास्थ्य अधिकारी नगर निगम ग्वालियर के पद पर सौंपे जाने हेतु अनापत्ति प्रमाण पत्र जारी किए जाने का लेख किया है।

डॉ. अनुज शर्मा, पशु चिकित्सा सहायक शल्यज्ञ, संभागीय

पशु चिकित्सालय सागर की सेवायें नगर निगम, ग्वालियर में स्वास्थ्य अधिकारी के पद पर प्रतिनियुक्ति के संबंध में पुनर्विचार करना चाहेंगे।

संलग्न:- उपरोक्तानुसार

(डॉ. आर.के. मेहिया)

संचालक

पशुपालन एवं डेयरी म.प्र. भोपाल

प्रमुख सचिव,

मध्यप्रदेश शासन,

पशुपालन एवं डेयरी विभाग।"

17. Therefore, it appears that the Department of Veterinary Services and Animal Husbandry had also suggested that the decision of posting Shri Anuj Sharma as Health Officer in Municipal Corporation, Gwalior may be reviewed but it appears that nothing was done thereafter. Accordingly, respondent No. 2 is directed to file a specific reply as to why the notesheet dated 18.04.2023 written by Dr. R.K. Mehiya, Director, Veterinary Services and Animal Husbandry was not taken note of and inspite of his suggestion to review the decision, Dr. Anuj Sharma was sent on deputation.

18. That is not the end of the high handedness of the authority of the State Government. This Court by order dated 13.03.2025 had directed that respondent No. 6 shall immediately stop function of Health Officer, Municipal Corporation, Gwalior and, accordingly, Commissioner, Municipal Corporation, Gwalior by order dated 18.03.2025, relieved respondent No. 6 in the light of order dated 13.03.2025 passed by this Court. However, the State is still out and out to protect Dr. Anuj Sharma. In para 13 of the return which has been filed by the State today itself, it is mentioned as under :-

"That, after completion of tenure of two years deputation, the services of respondent No. 6 have been repatriated by the municipal corporation vide their letter dated 18.03.2025"

Whereas the respondent No. 6 was relieved by the municipal corporation in view of the interim order passed by this Court on 13.03.2025. Similar stand was also taken by the State in the

return which was filed on 27.03.2025 at page 4 as under :-

*"As the term of the deputation was two years has come to an end the services of the respondent no.6 has been repatriated by the Municipal Corporation Gwalior vide letter dated 18.03.2025. Copy of the order of repatriation is annexed hereto marked as **Annexure R/1-4.**"*

19. Respondent / State has filed a copy of order dated 18.03.2025 by which respondent No. 6 was relieved in the light of interim order dated 13.03.2025. Thus, it is clear that the O.I.C. is out and out to protect the interest of Dr. Anuj Sharma because if Dr. Anuj Sharma was relieved on account of his illegal posting on deputation, then it will have adverse effect on the conduct of the State authorities but by projecting falsely that Dr. Anuj Sharma was not relieved on account of interim order dated 13.03.2025 but he was repatriated on account of completion of his term of two years, State authorities are directly and indirectly trying to support their act which could not be justified by the State authority so far.

20. Accordingly, the O.I.C. shall also file his affidavit as to why he has made false statement in return dated 27.03.2025 and return filed today to the effect that Dr. Anuj Sharma was repatriated after completion of his term of two years by suppressing this fact that he was relieved vide interim order dated 13.03.2025.

21. From the record, it appears that Dr. Anuj Sharma was earlier posted in Gwalior as a Veterinary Officer and he was given the charge of Laltipara Gaushala and other gaushalas, therefore, it appears that Dr. Anuj Sharma was interested in staying at Gwalior.

22. Accordingly, respondent No. 1 is also directed to file photocopy of the service book of Dr. Anuj Sharma with the details of his different postings from the date of his appointment.

23. The respondent No. 1 shall also clarify specifically as to why Dr. Anuj Sharma was posted as Health Officer inspite of the fact that (i) Dr. Anuj Sharma was not holding the MBBS i.e. minimum qualification; (ii) when the post could not have been filled up by deputation.

24. Respondent No. 6 shall also file his reply as to why he was interested in staying back in Gwalior instead of working in his parent department i.e. Veterinary Department at Sagar.

25. List on **16th of April, 2025.**

Dated : 16-04-2025

In response to order dated 09/04/2025, Municipal Corporation, Gwalior respondents No.1 and 3, respondents No.2 & 4, and 6 have filed their separate response.

2. In the paragraph 7 of aforesaid order, following three questions were raised to Municipal Corporation, Gwalior:-

(i) file a detailed reply as to why no steps were ever taken to fill up the vacant posts as per the provisions of Section 58 (1) of Act, 1956 and Rules, 2000 ?

(ii) why Municipal Corporation, Gwalior allowed the persons to be posted on deputation in excess of the sanctioned post ?

(iii) why Municipal Corporation, Gwalior succumbed to the dictations of the State Government to accept the persons on deputation contrary to the Rules, 2000?

3. In reply to those questions, Municipal Corporation, Gwalior has submitted that in the year 2016 a requisition was forwarded to examination body for initiating recruitment against 106 post. The examination body conducted the recruitment process only for a part of requisition, pursuant to which appointments were made and at present 26 candidates from the said recruitment are serving. It is submitted that in the year 2021 also the answering respondent again communicated to examination body regarding the requirement to fill-up 137 posts. However, examination body conducted a recruitment process only in respect of some of the notified posts resulting in 41 appointments on which presently 33 candidates are working. It is further mentioned that advertisement has been issued on 22/07/2024 for recruitment on various post against handicapped quota by walk-in interview and that process is going on and in near future the same is likely to be completed.

4. During the course of arguments, it was also submitted by counsel for respondent No.5 that on 11/01/2022, Municipal Corporation, Gwalior had sent an information to examination body with regard to vacant posts, but fairly conceded that by that letter only an information was sent in response to query raised by examination body and no requisition was sent for filling up the vacant posts.

5. With regard to question No.2, it is mentioned by counsel for Municipal Corporation that State Government is the highest

authority and Municipal Corporation being a statutory local body has no independent role or discretion in the matter of deputation/appointments. However, it is fairly conceded that salary of persons who are working on deputation against nonexisting posts or in excess of sanctioned post is being borne by Municipal Corporation, Gwalior and Municipal Corporation, Gwalior never asked for reimbursement from the State Government.

6. Answer to question No.3 is dependent on answer to question No.2 and stand of Municipal Corporation that being local Authority, Municipal Corporation, Gwalior has no say in the matter with regard to decision taken by State Government to send a person on deputation.

7. Thus, it is clear that Municipal Corporation has taken a specific stand expressing its helplessness on account of the orders of deputation which are being passed by the State Government i.e. respondents No.1 and 3.

8. Accordingly, respondents No.1 and 3 are directed to file their response as to why the salary paid by Municipal Corporation to persons who were sent on deputation in excess of sanctioned post or against the post which could not have been filled-up by deputation, may not be reimbursed by the State Government to Municipal Corporation and why salary of such persons may not be paid from the funds of State Government till they continue on deputation in Municipal Corporation, Gwalior.

9. Further the Municipal Corporation is directed to immediately initiate proceedings for recruitment to fill-up the post which are to be filled by direct recruitment. Let the requisition in that regard be sent to the competent authority within a period of 30 days from today and the recruitment process be completed within eight months from thereafter.

10. After referring to the conduct of respondents No.1 and 3 who have filed their return alongwith an affidavit of Shri Anil Kumar Dubey, Additional Commissioner, Municipal Corporation, Gwalior who is also on deputation, following question was put in paragraph 20 of order dated 09/04/2025:-

20. Accordingly, the O.I.C. shall also file his affidavit as to why he has made false statement in return dated 27.03.2025 and return filed today to the effect that Dr. Anuj Sharma was repatriated after

completion of his term of two years by suppressing this fact that he was relieved vide interim order dated 13.03.2025.

11. Paragraph 6 of the return reads as under:-

6. That, this Hon'ble Court in order dated 9.4.2025 in para 18 has observed in the following manner:

"18. That is not the end of the high handedness of the authority of the State Government. This Court by order dated 13.03.2025 had directed that respondent No. 6 shall immediately stop function of Health Officer, Municipal Corporation, Gwalior and, accordingly, Commissioner, Municipal Corporation, Gwalior by order dated 18.03.2025, relieved respondent No. 6 in the light of order dated 13.03.2025 passed by this Court. However, the State is still out and out to protect Dr. Anuj Sharma. In para 13 of the return which has been filed by the State today itself, it is mentioned as under :-"That, after completion of tenure of two years deputation, the services of respondent No. 6 have been repatriated by the municipal corporation vide their letter dated 18.03.2025". Whereas the respondent No. 6 was relieved by the municipal corporation in view of the interim order passed by this Court on 13.03.2025. Similar stand was also taken by the State in the return which was filed on 27.03.2025 at page 4 as under :-

"As the term of the deputation was two years has come to an end the services of the respondent no.6 has been repatriated by the Municipal Corporation Gwalior vide letter dated 18.03.2025. Copy of the order of repatriation is annexed hereto marked as Annexure R/1-4."

In that regard it is most humbly and respectfully submitted that the documents regarding repatriation of the petitioner has been filed with first return dated 27.3.2025 vide document No.3196/2025 before this Hon'ble Court then it is crystal clear that the answering respondents

having no any intention to hide and suppress anything with this Hon'ble Court because once document is produced before this Hon'ble Court then it is crystal clear that the answering respondents wants to bring each and every thing before this Hon'ble Court in fair manner though the wording has been used in the return is not absolutely identical to the document but factum of filing a document shown the bonafide intention of the authority. Hence, it is made clear that the authority is not suppressed anything before this Hon'ble Court and OIC of the case is not having any intention to protect the interest of Dr. Anuj Sharma. The OIC is also having an intention to bring each and every thing before this Hon'ble Court in a fair manner for just decision of the case.”

12. Thus, it is clear that Shri Anil Kumar Dubey has admitted that he had given a false statement on oath by alleging that Dr. Anuj Sharma has been repatriated on account of completion of his tenure whereas he was sent back to his parent department on account of interim order dated 13/03/2025 passed by this Court. Thus, it is clear that Shri Anil Kumar Dubey, Additional Commissioner, Municipal Corporation, Gwalior has deliberately filed a false return before this Court thereby projecting that Dr. Anuj Sharma was sent back to his parent department on completion of his period of deputation. Although, Shri Anil Kumar Dubey has tried to submit that the Court should not look into the pleadings but should look into the documents only and the authorities can make any false statement in their pleadings supported by affidavit but Shri Khedkar, Additional Advocate General could not justify the aforesaid stand taken by Shri Anil Kumar Dubey.

13. Whether a contempt proceeding, departmental action etc. should be initiated against Shri Anil Kumar Dubey, Additional Commissioner, Municipal Corporation, Gwalior or not shall be considered at the time of final disposal of this case.

14. In paragraph 16 and 17 of order dated 09/04/2025, a question was put to respondent No.2 as to why the note-sheet dated 18/04/2023 written by Dr. R.K.Mehiya, Director Veterinary Services and Animal Husbandry was not taken note of and why Dr. Anuj Sharma was sent on deputation.

15. By referring to note-sheet of another Minister of *Animal Husbandry Dairy Social Justice and Divyangajan Sashaktikaran*, it is submitted by counsel for State that since, Dr. Anuj Sharma had already worked as Veterinary doctor in Gaushala situated in Gwalior, therefore, the objection raised by Dr. R.K.Mehiya was overruled.

16. Accordingly, counsel for State was directed to clarify the duties which are assigned to Health Officer.

17. By referring to paragraph 8 of return filed by respondents No.1 and 3 today, it is submitted that respondents No.1 and 3 have specifically clarified that the basic work of Sanitary Officer relates to public health and convenience including cleaning of drains, disposal of sewage drain and privies, maintain zoo, animal health, control centers, Slaughter house, monitoring adulteration of food and anti-rabies vaccination, maintenance of carcass.

18. Thus, Shri Khedkar was directed to clarify as to whether all the aforesaid duties, which are not exhaustive in nature can be performed by a veterinary doctor or not ? It was fairly conceded by Shri Khedkar that cleaning of drains, disposal of sewage drain and privies and monitoring of adulteration of food, cleanliness in the city etc does not fall within the jurisdiction of veterinary doctor. Therefore, it is clear that the objection which was raised by Dr. R.K.Mehiya with regard to deputation of Dr. Anuj Sharma in Municipal Corporation, Gwalior was overruled on flimsy ground. **It is submitted by Shri Khedkar that since, the decision was taken at the highest level, therefore, authorities were incapable of taking any contrary decision. The aforesaid submission made by counsel for respondents No.1 and 3 shows helplessness of authorities functioning within the State of M.P.**

19. It is for the State Government to consider that in what manner the law and order situation is to be maintained in the State of M.P. because on one hand Municipal Corporation has also expressed its helplessness in respect of all the orders passed by State Government and on other hand the officers of State Government have expressed their helplessness in view of decisions taken at the highest level.

20. In paragraph No.15 of order dated 09/04/2025 the following question was put to respondents No.1 and 3:-

15. It is for the O.I.C. to answer the query as to why the material facts were suppressed by him inspite of the specific direction given by this Court in para 9 of the order dated 19.03.2025. Accordingly, Shri Anil Kumar Dubey, Additional Commissioner, Municipal Corporation,

Gwalior is directed to clarify as to why in both the returns i.e. return filed on 22.03.2025 and return filed today, the correct facts have not been placed on record and why they have been suppressed and what was the intention behind said suppression.

21. A reply has been filed by respondents No.1 and 3. Paragraph 5 of their return which has been filed today reads as under:-

5. That, this Hon'ble Court in order dated 9.4.2025 in para 15 has observed in the following manner:

15. It is for the O.I.C. to answer the query as to why the material facts were suppressed by him inspite of the specific direction given by this Court in para 9 of the order dated 19.03.2025. Accordingly, Shri Anil Kumar Dubey, Additional Commissioner, Municipal Corporation, Gwalior is directed to clarify as to why in both the returns i.e. return filed on 22.03.2025 and return filed today, the correct facts have not been placed on record and why they have been suppressed and what was the intention behind said suppression.

With regard to the aforesaid observation it most humbly and respectfully submitted that since entire record has been produced before this Hon'ble Court by the answering respondents on the given date then there is no question to suppress any of the fact since the sealed cover envelope was not opened by the OIC so that aforesaid opening has not been done by the OIC and the OIC with the bonafide intention to produce each and every thing before this Hon'ble Court directly. By that reason only in the reply filed on behalf of the State is not annexed with the return.”

22. Respondents No.1 and 3 have also taken a stand that whatever false reply is filed, the Court should look into the documents only, which speaks in volumes about the high handedness of the authorities who are trying to put blame on highest authority of their department.

23. One thing is clear that not only Shri Anil Kumar Dubey, Additional Commissioner, Municipal Corporation, Gwalior suppressed the fact that decision to send respondent No.6 on deputation to Municipal Corporation, Gwalior was taken by Minister but even the objection raised by Dr. R.K.Mehiya was also turned down by another Minister was suppressed in their return and facts came to notice only after the records were perused. It was the contention of counsel for respondents No.1 and 3 that since records were in sealed cover, therefore, OIC was not aware of certain facts. That fact has already been taken note of in para 10 of previous order and, therefore, the same does not require any further deliberations, and said stand is rejected. Furthermore, the

respondent Nos. 1 & 2 are directed to clarify as to whether they had disclosed to OIC with regard to initiation of deputation proceedings or not and, if not, then why the OIC was not made aware of the different note-sheets written by Ministers.

24. In response to paragraph 21 of order dated 09/04/2025, respondent No.6 has filed his separate return but has not disclosed as to why he is interested in getting posted in Gwalior itself and that too against nonexisting post of health officer for which he was not holding the minimum qualification. However, during the course of arguments, it was submitted by Shri Pawan Dwivedi that respondent No.6 is ready to go to any place wherever he is posted by State Government.

25. Considered the aforesaid submission made by Shri Pawan Dwivedi.

26. In response to paragraph 22 of order dated 09/04/2025, the service book of respondent No.6 has been produced from which it is clear that after his appointment he was posted in Sagar, thereafter, he came to Gwalior as veterinary doctor and again went back to Sagar and, thereafter, he was sent on deputation to Gwalior. He has spent his entire service carrier either at Sagar or Gwalior. Although, respondent No.6 has fairly conceded that he is ready to go to any place wherever he is posted by State Government but the manner in which respondent No.6 was shown undue favour by State Government, it shows that respondent No.6 appears to be an influential person.

27. Since, respondent No.6 has shown his inclination to be posted in any part of State of M.P., therefore, it is directed that if the respondent No.6 moves an application for his posting either in the veterinary hospital, Alirajpur or Jhabua, then State Government shall consider the said request because the general public is poor and the animals of that area may also get the services of Dr. Anuj Sharma.

28. Now the only question for consideration is as to whether Dr. Anuj Sharma was holding the minimum qualification for his posting as Health Officer in Municipal Corporation, Gwalior or not ?

29. It was submitted by Shri Khedkar that minimum qualification for the post of Sanitary Officer is not MBBS only and to buttress his contention, counsel for respondent No.3 has relied upon his contentions mentioned in paragraph 8 of return, which has been filed today.

30. The relevant part of aforesaid paragraph reads as under:-

“8. That, this Hon'ble Court in order dated 9.4.2025 Thereafter on 18.08.2023 as per earlier note-sheet, Anuj Sharma was appointed on deputation for a period of two years with certain terms and conditions as mentioned in the order itself which is already enclosed as Annexure P/2. Anuj Sharma was not having MBBS qualification. But it is respectfully submitted that Rules of 2000, Schedule-3 wherein the relevant schedule and numbers are 36, 37, 38 and 39 wherein the persons would be appointed on the post of Chief Sanitary Officer, thereafter Sanitary Officer, Assistant Sanitary Officer and the process of promotion was also given. The minimum qualification for holding the post of Assistant Sanitary Officer is MBBS, however for the post of Sanitary Inspector, minimum qualification is B.Sc and diploma in Sanitary. It is further clarified that the post of Sanitary Inspector wherein BSC + diploma in Sanitary and promotional post of Sanitary Inspector would be Assistant Sanitary Officer and thereafter the person concern can be promoted as Chief Sanitary Officer. Meaning thereby, the minimum qualification for holding the post of Sanitary Officer would not be MBBS only. Meaning thereby, the Sanitary Inspector can be promoted as per schedule of Rules of 2000 and there are posts available, so the persons may be promoted from Sanitary Inspector to Assistant Sanitary Officer and thereafter Chief Sanitary Officer. In such situation, any person who is not having the minimum eligibility, which is required for Sanitary Officer as MBBS, is not essential qualification but the post can be filled up by promotion even the person is not having MBBS degree.”

31. Accordingly, a specific question was put to Shri Khedkar as to whether a person who is appointed as a class three employee can be sent on deputation on a class one post by holding that since, person who has been sent on deputation is holding the minimum qualification for the class three post or not ? Shri Khedkar rightly got agitated after hearing the query from the Court because a Class-I officer would not like to be substituted by person of Class-III even by deputation. It is really surprising that when a higher officer is not ready to get substituted by an officer of Class-III post by deputation, then why they are taking such stand in the return. Nothing more is required to be said about the manner in which the return has been drafted except that even Shri Khedkar accepted that respondent No.6 is not holding the minimum qualification prescribed for the post of Sanitary Inspector also. Although, it was the stand of State Government that the minimum qualification for the post of Sanitary Officer is B.Sc. and Diploma and the post of Assistant Sanitary Officer can be filled by promotion from Chief Sanitary Officer but could not justify as to how the State Government can say that since, the minimum qualification for the lowest post i.e. Sanitary Officer is

Diploma and B.Sc., therefore, the post of Sanitary Officer can be filled up by a person who is not holding minimum qualification i.e. MBBS which is required for Assistant Sanitary Officer. Even otherwise, it is undisputed fact that Dr. Anuj Sharma was not even holding B.Sc. and Diploma as required for direct recruitment to the post of Sanitary Inspector. Furthermore, the State Government had sent respondent No.6 on deputation on a non-existing post i.e. Health Officer whereas there is no post like Health Officer and only posts are of Chief Sanitary Officer, Assistant Sanitary Officer, Sanitary Officer.

32. It was submitted by Shri Pawan Dwivedi that as per the set up relied upon by petitioner himself, the veterinary doctor is kept in category of Assistant Sanitary Officer and, therefore, the petitioner could have been posted as a Sanitary Officer in Municipal Corporation, Gwalior.

33. Considered the submissions made by counsel for respondent No.6.

34. It is submitted by counsel for petitioner that so far as the set up is concerned, it merely provides that where population is more than five lacs, veterinary doctor under the category of Assistant Sanitary Officer can also be posted. The duties to be performed by veterinary doctor are completely different from the duties of Assistant Sanitary Officer, therefore, respondent No.6 cannot take advantage of set up which merely provides number of officers to be posted in an area. Further it is submitted by counsel for petitioner that said set-up was only a proposed set up and recruitment has to be made in accordance with Rules, 2000. Furthermore, the veterinary doctor was never placed in the category of Sanitary Officer which was earlier known as Health Officer.

35. It is further submitted by Shri Pawan Dwivedi that since, Municipal Corporation, Gwalior was in need of veterinary doctor, therefore, they were also demanding veterinary doctor and thus, the deputation of respondent No.6 was in order to fulfill the demand raised by Municipal Corporation for posting of veterinary doctor.

36. In reply, a very shocking answer was given by counsel for petitioner. It is submitted that Dr. Dinesh Dixit who is a veterinary doctor has been sent on deputation on the post of Dy. Commissioner by order dated 14/08/2023. The said fact was also accepted by Shri Gaurav Mishra and submitted that Dr. Dinesh Dixit was sent on deputation on the post of Dy. Commissioner. The aforesaid fact is subject to verification. However, if a veterinary doctor was sent on deputation on the post of Dy. Commissioner, then it speaks in volumes about the manner in which the officers are being sent on deputation to Municipal

Corporation, Gwalior requiring deeper probe into this aspect. Municipal Corporation, Gwalior has also filed the details of all the officers who have been sent on deputation in Municipal Corporation, Gwalior as Annexure R-5/6. However, it is submitted by Shri Mishra that so far as the Commissioner is concerned, he is appointed as per the provisions of Section 54 of M.P. Municipal Corporation Act, 1956. However, in remark column of R-5/6 the word “deputation” has been mentioned. Thus, in absence of order of posting of Commissioner, it is difficult for this Court to find out as to whether he has been sent in exercise of power under Section 54 of Municipal Corporation Act, 1956 or he has been sent on deputation.

37. Accordingly, issue notices to 61 persons who have been named in Annexure R-5/6 (filed alongwith I.A.No.4042/2025) namely Shri Sangh Priya, Smt. Rajni Shukla, Shri Vijay Raj, Shri Munish Sikarwar, Shri Anil Kumar Dubey, Shri Dinesh Dixit, Shri Sunil Kumar Chauhan, Shri Amar Satya Gupta, Shri Santosh Sharma, Shri Vaibhav Shrivastava, Shri Bhanu Pratap Singh Tomar, Smt. Salini Singh, Smt. Pooja Mehkali, Shri Ashish Rajpoot, Shri Ashok Kumar Gupta, Shri Vishal Garg, Sushri Girishma Arya, Sushri Tanuja Verma, Shri Ravi Godiya, Sushri Suruchi Bansal, Shri Anil Chauhan, Shri Ajeet Jain, Smt. Varsha Mishra, Shri Rajesh Khare, Shri Pramod Pal, Shri Dharmendra Dhakad, Shri Jaggan Agrawal, Smt. Snehlata Parmar, Shri Dinesh Jatav, Shri Satendra Singh, Shri Rahul Dhoroliya, Shri Abhishek Singh Bhadauriya, Smt. Renu Tomar, Shri Rajkumar Koshta, Smt. Rupali Arya, Shri Prashant Rao, Shri Rajendra Singh Vikram, Shri Dharmendra Singh Parmar, Shri Deependra Sengar, Smt. Ritu Agrawal, Shri Sachin Savita, Shri Ankit Sharma, Smt. Sheetal Dandotiya, Shri Vivek Tyagi, Shri Jitendra Singh Rajawat, Shri Mahesh Pratap Singh Sikarwar, Shri Bhupendra Sasode, Shri Hemant Kushwah, Shri Jitendra Singh Baghel, Shri Ramendra Singh Gurjar, Shri Brijendra Singh Kirar, Sushri Nikita Sharma, Shri Abhishek Sharma, Shri Vivek Shrivastava, Smt. Salini Gupta, Smt. Ruchi Yadav, Smt. Sapna Chauhan, Sushri Sonali Parashar, Smt. Priyanka Dwivedi, Shri Sandeep Mishra, Shri Kuldeep Parashar to show cause as to why their deputation may not be cancelled and why they should not be sent back/repatriated to their parent department.

Notices are made returnable within a period of two weeks.

The notices shall be served through Commissioner, Municipal Corporation, Gwalior, who shall file his service report by 30/04/2025.

38. Respondents No.1 and 3 are also directed to file their response with regard to each and every person who has been sent on deputation and whose names are mentioned in R-5/6.

39. Respondents No.1 and 3 shall also specifically file a reply as to why certain persons have been sent on deputation whereas as per Rules 2000, the post cannot be filled up by deputation, and shall also clarify that why excessive persons have been sent on deputation whereas sanctioned strength of that particular post is less.

40. This Court could have quashed the order of deputation or could have closed the writ petition, but the manner in which shocking facts are coming on record on each and every date, it has become necessary to issue notices to all the officers who are on deputation including OIC who is guilty of suppressing the material facts while filing the return.

41. It is submitted by Shri Khedkar that in fact the State Government has cancelled the deputation of respondent No.6.

42. Considered the aforesaid submissions.

43. Respondents No.1 and 3 have filed a letter dated 15/04/2025 as Annexure R-1/13 alongwith return filed today, which says that since, Dr. Anuj Sharma has been relieved, therefore, his relieving is granted post-facto approval and his services are repatriated to parent department. It is made clear that respondent No.6 was not relieved by Municipal Corporation, Gwalior on its own but it was under compulsion as an interim order was passed by this Court on 13/03/2025 thereby directing the Municipal Corporation to immediately relieve Dr. Anuj Sharma. Thus, even while passing the order dated 15/04/2025 Dy. Secretary State Government of M.P., Urban Development and Housing has not accepted the mistake which was committed by State and they are still trying to protect and hide their mistakes. On one hand respondents No.1 and 3 have accepted that Dr. Anuj Sharma was not holding minimum qualification but still he was sent on deputation on a non-existing post specifically when, even the Municipal Corporation in its NOC had made it clear that minimum qualification is MBBS, but still the State is not ready to accept its mistake and is still trying to cover up its misdeed by filing vague and misleading returns. Therefore, now if any order of cancellation of deputation is passed that will not be taken note of for the purposes of this petition because that will be under compulsion as respondent/State is unable to answer any of the query, which is being raised by this Court and is also unable to answer as to how Dr. Anuj Sharma was eligible to be sent on deputation on the non-existing post of Health Officer.

44. At the cost of repetition, respondents No.1 and 3 are also specifically directed to file detailed reply in respect of each and every person who has been sent on “deputation/deputation by transfer” including the question as to why some of them have been sent on deputation in excess of sanctioned strength and why some of them have been sent on deputation where Rule does not provide for filling up the post by deputation.

45. The State Government is also directed to clarify that why persons who have been sent on deputation are not interested in serving their parent department and why persons are interested in getting themselves transferred to Municipal Corporation, Gwalior on deputation.

46. The photocopy of service book which was produced in sealed cover, the record pertaining to sending Dr. Anuj Sharma on deputation are also returned to the counsel for respondents No.1 and 3 in a sealed cover.

47. List this case **on 02/05/2025.**

Dated 02-05-2025

Counsel for the noticees pray for and are granted two days' time to file a detailed return pointing out the substantive post in their parent department and whether they themselves had moved an application for sending them on deputation to Municipal Corporation, Gwalior or not and if so then what was the reason for the same.

Counsel for respondent No.5 also undertakes to file a specific return that which private noticee is working against a post which could not have been filled by deputation or who are posted in excess of the maximum number of sanctioned post which could have been filled up on deputation as per Rules 2000.

The State counsel prays for and is granted two days' time to file a detailed return in respect of each private noticee specifically pointing out the reason for which the proposal for sending them to Municipal Corporation, Gwalior on deputation was initiated as well as the substantive post of the private noticees in their parent department.

The respondents No.1 to 4 shall also specifically point out as to whether the private noticees are eligible to hold the post on which they have been sent on deputation. The counsel for respondents No.1 to 4 shall also specifically point out as to why the person in excess of the sanctioned post and contrary to the Rule 2000 were sent on deputation.

This Court vide order dated 16.04.2025 and had also directed respondents No.1 to 4 to point out as to why a direction may not be given to reimburse the salary of the persons who have been sent on deputation by the State to the Municipal Corporation, Gwalior because the Municipal Corporation, Gwalior has expressed its inability and helplessness in the light of the orders of deputation which have been passed by State Government. Accordingly, a specific reply should also be given by the respondents No.1 to 4 as to why salary of such persons who have been sent on deputation should not be directed to be reimbursed by State right from the date of their deputation as well as till they remain on deputation in Municipal Corporation Gwalior.

Counsel for respondents No.1 to 6 shall also file their specific return to the question raised by this Court by order dated 16.04.2025. Therefore, respondent No.6 is also directed to file a specific return by next date of listing to answer the question raised by this Court by order dated 16.04.2025.

At this stage, it is submitted by counsel for respondent No.5 that Shri Sangh Priy, Commissioner, Municipal Corporation, Gwalior was sent by the State Government in exercise of power under Section 54 of the Municipal Corporation Act and therefore, notice issued may be recalled as he was not sent on deputation.

The case was taken up at 10:30 in the morning and therefore, the State counsel was directed to seek instructions from the concerned department as to whether Shri Sangh Priy was sent to Municipal Corporation, Gwalior in exercise of power under Section 54 of the Municipal Corporation Act or he was sent on deputation because the order by which Shri Sangh Priy was sent to Municipal Corporation, Gwalior neither contains the declaration that such order has been passed in exercise of power under Section 54 of the Municipal Corporation Act nor contains the word deputation.

Accordingly, at the request of counsel for the State, case was passed over and it was taken up at 02:30 pm. In the passover round also, counsel for the State expressed his helplessness in answering the query raised by this Court. Thus, it is clear that either the officers sitting at the highest level are hiding certain facts from the Court or they are unable to understand the basis on which they have passed certain orders.

It is submitted by Shri Kushwaha that since the Principal Secretary of GAD was unable to understand the real intention of the order passed by this Court on 16.04.2025 as well as the direction given by this Court in the first half of the day, therefore, he did not communicate anything to

him with regard to the provision under which the order of posting of Shri Sangh Priy, Municipal Corporation, Gwalior was passed. Accordingly, he prays for two days' time to file a detailed reply with regard to the nature of order of posting of Shri Sangh Priy.

For the time being, notice issued to Shri Sangh Priy, Commissioner, Municipal Corporation, Gwalior is kept on hold and accordingly, the reply filed by him in response to the notice issued by this Court by order dated 16.04.2025 shall also not be considered with regard to his method of posting.

At this stage, it is submitted by Shri D.P.Singh that the State Government by order dated 28.04.2025 has repatriated Dr. Dinesh Dixit to his parent department.

The said fact is taken on record.

However, the State Government shall justify its act of sending Dr. Dinesh Dixit on deputation to Municipal Corporation, Gwalior.

It is further directed that from today onwards, all the replies shall be filed by the State Government along with an officer not below the rank of Under Secretary posted in the department at Bhopal and all the returns/applications shall be filed by Municipal Corporation, Gwalior along with affidavit of Commissioner, Municipal Corporation only.

Aforesaid direction has been issued because the OICs are also on deputation and notices were also issued to them.

List the case **on 05.05.2025**.

In order to enable the respondents as well as the noticees to file their return, it is made clear that the case shall be taken up at 04:30 pm irrespective of serial number at which it might be listed.

Dated : 05-05-2025

It is submitted by counsel for petitioner that today he has filed I.A. No. 4951/2025.

2. For the reasons mentioned in the application, same is allowed. Persons mentioned in the said application are directed to be impleaded as additional respondents. Since all the respondents as mentioned in the application have already been served, accordingly, no fresh notice is required.

3. Let amendment be carried out by tomorrow.

4. It is submitted by counsel for State that because of continuous load shedding, the return could not be prepared and prays for a day's time. It was also submitted that although this Court by order dated 16.04.2025 had directed the State counsel to produce the files of all the persons pertaining to their deputation but he has received only 30 files. He also expressed that he is not in a position to obtain the remaining files by tomorrow.
5. It is a case where lot of persons have been sent on deputation contrary to the Madhya Pradesh Municipal Corporation (Appointment and Conditions of Service of Officers and Servants) Rules, 2000 because of which case of each and every person has to be considered on its own merits and it is for the Corporation to decide that who is to be retained and who is not to be retained.
6. Counsel for Corporation is also directed to give the details of persons who are engaged in essential services so that if any order of cancellation of their deputation is passed, then essential services of City of Gwalior may not come to a halt.
7. It is also submitted by counsel for respondent No. 5 that the proceedings for filling up the vacant post are underway.
8. Accordingly, list this case **tomorrow (06.05.2025). The case shall be taken up at 02:30 pm irrespective of serial number at which it might be listed.**
9. In order to take up other cases also, this Court will consider the cases of Smt. Rajni Shukla, Shri Vijay Raj, Shri Munish Singh Sikarwar, Shri Anil Kumar Dubey, Shri Sunil Kumar Chouhan, Shri Amar Satya Gupta, Shri Santosh Sharma, Shri Vaibhav Shrivastava, Shri Bhanu Pratap Singh Tomar, Smt. Shalini Singh, Smt. Puja Mehkali, Shri Ashish Rajput, Shri Ashok Kumar Gupta, Shri Vishal Garg, Sushri Tanuja Sharma and Shri Ravi Godiya. The case of others shall be considered on the next date of hearing.”
14. Accordingly, the Counsel for the parties were heard from 6-5-2025 to 8-5-2025.
15. Before considering the individual case of all the private respondents, this Court would like to consider the general arguments advanced by the Counsel for the parties.

16. For the sake of convenience, the entire controversy can be summarized in following questions :

- (a) What is the authority of the State Govt. to send the employees to Municipal Corporation, Gwalior on deputation/transfer on deputation?
- (b) Whether the State Govt. can send the employees to the Municipal Corporation, Gwalior in contravention of Rules 2000?
- (c) Whether the action of the State Govt. in sending the employees on deputation/transfer on deputation to Municipal Corporation is result of Colourable exercise of power or not?
- (d) Whether the State Govt. can be directed to reimburse the salary paid to those employees by the Municipal Corporation, Gwalior, who have been illegally send on deputation/ transfer on deputation either on account of ineligibility or contravention of Rules 2000?
- (e) Whether, without any exceptional circumstance, a person can be send on deputation/ transfer on deputation, merely on the basis of recommendation made by Minister?
- (f) What is the meaning of Transfer, Deputation and Transfer on Deputation?
- (g) Whether eligibility or suitability of the employees who have been sent on deputation/ transfer on deputation can be considered by this Court?
- (h) In case if the deputation/ transfer on deputation of employees is quashed then whether all of them should be directed to immediately go back to their parent department, or the Municipal Corporation, Gwalior can be granted some discretion to retain those employees who are engaged in essential services for a period of 8 months, i.e., till the regular appointments are made ?

Arguments

Shri S.S. Kushwaha, Govt. Advocate

17. By referring to Section 54 of Municipal Corporation Act, it is submitted by Counsel for State that the Commissioner is appointed under this provision.

Accordingly, it is submitted that Shri Sangh Priy was posted as Commissioner, Municipal Corporation, Gwalior.

18. Accordingly, he was directed to provide the record pertaining to posting of Shri Sangh Priy, as Commissioner, Municipal Corporation, Gwalior. In the name of record, only an order of posting/transfer of Shri Sangh Priy was provided to the Court, and it was submitted that except the order of posting/transfer, there is no other record to show that the order of Shri Sangh Priy has been passed in exercise of power under Section 54 of Municipal Corporation Act. He also admitted that the order of posting of Shri Sangh Priy is a consolidated transfer order of various officers. Thus, it is clear that Shri Sangh Priy has been transferred to Municipal Corporation, Gwalior by passing a normal transfer order, without there being anything to show that said order has been passed under Section 54 of Municipal Corporation Act.

19. It is further submitted by Shri Kushwaha, that employees can be send on deputation/ transfer on deputation in exercise of power under Section 58(3) and 58(5) of Municipal Corporation Act.

20. **However, it was admitted by Counsel for State that inspite of order passed by this Court, the respondents have not provided records of all the noticees, pertaining to their deputation/transfer on deputation, and submitted that adverse inference may not be drawn in respect of those employees, whose records have not been sent by the respondent. Shri Kushwaha also prayed that atleast one month's time may be granted to produce the record of remaining employees.**

21. Considered the submission made by Shri Kushwaha for grant of one month's time to produce the record of remaining employees.

22. Shri Kushwaha was directed to point out reasons for not producing the records pertaining to deputation/transfer on deputation of some of the employees. Shri Kushwaha, maintained silence and did not point out any reason for not producing the record of some of the employees. Thus, it is clear that the

respondents no. 1 to 4 are deliberately hiding the records pertaining to deputation/ transfer on deputation of some of the employees. Thus, where a person is in possession of best evidence and do not produce the record inspite of the direction given by the Court, then adverse inference can be drawn. Therefore, it is held that an adverse inference shall be drawn in respect of those employees, whose record pertaining to their deputation/ transfer on deputation has not been produced inspite of in spite of opportunity given by this Court.

23. So far as the question as to why the persons were sent on deputation/ transfer on deputation to the Municipal Corporation, Gwalior, it was submitted by Counsel for the State that it was on the demand made by the Municipal Corporation, Gwalior. However, fairly conceded that no letter was sent by Municipal Corporation, thereby requesting the State Govt. to send the employees on deputation/ transfer on deputation. He fairly conceded that the Municipal Corporation, Gwalior had merely informed about the vacancy existing in the Municipal Corporation, Gwalior. He further admitted that no note sheet has been placed on record, to show that the State Govt. had ever treated such information regarding vacancies as a deemed demand. Accordingly, it is fairly conceded by Shri Kushwaha that the stand that employees were sent on deputation on the demand raised by the Municipal Corporation is a self generated excuse with no factual background.

24. So far as the question as to why the State Govt. may not be directed to reimburse the salary of those employees back to the Municipal Corporation, it was submitted by Counsel for the State that since, the employees were sent on deputation in accordance with law and those employees have worked for the Municipal Corporation, Gwalior, therefore, no such direction may be issued.

25. Accordingly, whether the employees were sent on deputation in accordance with law or not shall be considered after individual cases are considered.

26. So far as the question as to why the State Govt. sent the employees on deputation/transfer on deputation in contravention of Rules 2000 and in excess of sanctioned strength, the Counsel for the State maintained silence and did not justify the said act of the State Govt. It is fairly conceded that there is no record to suggest that total number of posts which can be filled up by deputation/transfer on deputation were ever considered by the State Govt. He further admitted that the proposal to increase the sanctioned strength of Add. Commissioner to 4 from 2 was never approved by the State Govt., but could not explain then why four persons were sent on deputation on the post of Add. Commissioner specifically when according to Rules, 2000, 50% of the sanctioned strength is to be filled up by promotion. He fairly conceded that there is no answer to the above question either in the form of pleading or record.

27. So far as the recommendations made by Ministers is concerned, it is **specifically admitted by Shri Kushwaha that none of the record which has been provided to the Court contains the recommendatory letter of the Minister. There is nothing in the note sheets to show that it was ever considered by the State Govt. that sending a person on deputation/ transfer on deputation is in public interest. He fairly conceded that persons were sent on deputation/ transfer on deputation merely on account of recommendation made by Ministers. Thus, it is clear that employees were sent on deputation merely on the recommendation made by the Ministers, without considering the public interest.**

28. It is not out of place to mention here that on 16-4-2025, Shri Vivek Khedkar, Add. Advocate General had appeared on behalf the respondents no. 1 to 4 and had expressed the helplessness of the officials of the State Govt. and his contention was recorded in the order sheet as under :

“It is submitted by Shri Khedkar that since, the decision was taken at the highest level, therefore, authorities were incapable of taking any contrary decision. The aforesaid submission made by

counsel for respondents No.1 and 3 shows helplessness of authorities functioning within the State of M.P.”

Shri Gaurav Mishra, Counsel for Municipal Corporation, Gwalior

29. It is submitted by Counsel for Municipal Corporation, Gwalior that it had never made any request to the State Govt. for filling up the vacancies by **deputation**/ transfer on deputation. It is submitted that by letter dated 2-1-2021, the Joint Director, Urban Administration and Development Secretariat sought information regarding total number of vacancies, therefore in response to the said letter, a reply dated 11-1-2021 was sent to Joint Director, Urban Administration and Development Secretariat, thereby informing the Sanctioned Posts, Vacancies and the filled up posts. Even otherwise, the Joint Director, Urban Administration and Development Secretariat did not make any attempt to fill up the posts by direct recruitment. Even otherwise, no decision of the State Govt. was ever communicated to the Municipal Corporation that till the regular appointments are made, the State Govt. shall be sending employees on deputation/ transfer on deputation. It is further submitted that only in few cases, the NOC from Municipal Corporation was sought but otherwise, the employees were sent without obtaining any consent from the Municipal Corporation.

30. It is further submitted that so far as the action of State to post persons on deputation/ transfer on deputation in excess of sanctioned strength is concerned, it is submitted that the Municipal Corporation had sent a detailed report outlining the complete administrative setup including the number of vacancies, sanctioned strength as well as **additional persons working on deputation**. It is submitted that authority to post persons on deputation exclusively lie with the State Govt. under Section 58(3) of Municipal Corporation Act, and Municipal Corporation has no independent say in the matter and it has to act in accordance with the decision of the State Govt. It is submitted that during the tenure of Administrator, the Municipal Corporation had formally requested the State Govt. to repatriate approximately 38 employees, citing financial constraints on

account of Covid 19 pandemic. However, with passage of time, the financial condition of Municipal Corporation improved and therefore, no action was thereafter taken with regard to request for repatriating the employees.

31. With regard to efforts made by Municipal Corporation for making regular appointment is concerned, it is the stand of the Municipal Corporation that the Municipal Corporation was making sincere and bonafide efforts to fill up the vacant posts in accordance with statutory provisions. In the year 2016, a requisition was forwarded to the examination body for initiating recruitment against 106 vacant posts and in response to that, the examination body conducted recruitment process only for a part of requisitioned posts and at present 26 candidates from the said recruitment are serving. Again in the year 2021, and Municipal Corporation communicated to the examination body to conduct examination for 137 posts and only few posts were advertised and at present 33 candidates are working who got selected in the said recruitment process are working. It is further submitted that on 3-4-2025, 119 posts have been advertised which are reserved for persons with disabilities and the said selection process is presently underway at the level of Municipal Corporation.

32. Thus, it is the stand of the Municipal Corporation that from time to time, it was requesting the examination conducting body to conduct recruitment process to fill up the vacant posts, but it was the examining body which did not conduct recruitment process to fill up the vacancies.

33. It is further submitted that the Municipal Corporation by making remark in its letter dated 11-1-2021, had specifically informed the State Govt. with regard to the excess number of employees working on deputation. Thus, it is the stand of the Municipal Corporation, Gwalior, that although the Municipal Corporation was constantly informing the State Govt. about posting of employees on deputation/ transfer on deputation in excess of what is provided under Rules, but even then the State Govt. continued to send more persons on deputation/ transfer on deputation even on the posts which were not available to

the filled up by deputation/ transfer on deputation, but since, it is within the exclusive domain of the State Govt., therefore, the Municipal Corporation, Gwalior could not refuse to accept the joining of the persons, who were sent on deputation/transfer on deputation, on the posts which were not available to be filled up by deputation/transfer on deputation or which were in excess of sanctioned strength. **Thus, it is clear that the Municipal Corporation, Gwalior has put the entire blame on the State Govt. in sending persons on deputation/ transfer on deputation in contravention of provisions of Rules 2000.**

Shri M.P.S. Raghuvanshi, Senior Advocate

34. Shri Raghuvanshi, started his arguments by submitting that the Court must give patient hearing because at the end of the day, होइहि सोइ जो राम रचि राखा. Accordingly, it was the prayer of Shri Raghuvanshi, that this Court should consider his arguments without putting any question. Therefore, this Court did not put even a single question during his arguments.

35. It is submitted by Shri Raghuvanshi, that this petition against the noticees i.e., who were subsequently impleaded in view of the order passed by the Writ Appellate Court, is not maintainable. The writ of Quo Warranto would lie only if the appointment of an employee is bad on account of the fact that said employee is not eligible to hold the said post. Even otherwise, there is a difference between Eligibility and Suitability and this Court cannot look into the suitability of an employee as it is within the exclusive domain of the State Govt. It is submitted that F.R. 110, 9(7) deals with deputation, whereas F.R. 9(3) deals with lien. It is further submitted that in view of provisions of Section 58(3) and (5) of Municipal Corporation Act, the State Govt has an authority to send any person on deputation/transfer on deputation and as per Section 58(5) of Municipal Corporation Act, even the consent of the concerning Municipal Corporations is not required. However, fairly conceded in none of the order of transfer on deputation, it was mentioned by the State Govt. that the deputationist

shall hold his lien on his original post. But it is submitted that the conditions of Section 58(6) of Municipal Corporation Act are inbuilt in the order of transfer on deputation and it is not required to be mentioned specifically in the order. It is further submitted that under Article 243 of Constitution of India, the Municipal Corporations are under the control of the State Govt. It is further submitted that if a person has been sent on deputation, then the post held by him on deputation/ transfer on deputation cannot be said to be a regular post. Shri M.P..S. Raghuvanshi, relied upon the judgments passed by Supreme Court in the case of (1999) 4 SCC 659, (2012) 7 SCC 757, (2022) 7 SCC 706, (2006) 11 SCC 731, (1997) 4 SCC 348, (2010) 9 SCC 655, 1993) 4 SCC 119, (1999) 7 SCC 120, (2023) 5 SCC 661, (2012) 9 SCC 545, (2014) 1 SCC 161, and orders passed by this Court in the case of 2015(2) MPLJ 339, 1986 MPLJ 495, and (1998) 1 MPLJ 449.

36. Since, Shri Raghuvanshi had requested the Court not to disturb him during the Course of arguments, therefore, the line of argument which was adopted by Shri Raghuvanshi that this petition against the subsequently impleaded is a writ petition in the nature of quo warranto was not questioned by this Court. However, at the end of his arguments, only one question was put to him and that was that “whether this Court can consider the act of State Govt. in sending any person to Municipal Corporation on deputation/ transfer on deputation or not and whether such act of Govt. is subject to judicial review or not? In nutshell, a question was put to Shri Raghuvanshi was that, whether the act of Govt. is a colourable exercise of power or not can be considered by this Court or not?

37. It was fairly conceded by Shri Raghuvanshi, that whether the Govt. has acted fairly in accordance with law or whether its action is bad on account of colourable exercise of power or not has to be justified by the State and such act of State Govt. is not beyond the power of judicial review. However, Shri

Raghuvanshi, did not advance any argument on the question of colourable exercise of power by the State.”

Shri Harish Dixit, Senior Advocate

38. It was submitted by Shri Dixit that Rules 2000, does not provide the number of sanctioned posts and the setup on which the respondents are relying is not the final set up and it is merely a proposal. However, in spite of repeated queries by this Court, that even if his contention is accepted then what would be consequences, i.e., whether the State Govt. would get uncontrolled power to appoint or post any number of employees on deputation/ transfer on deputation, or no one can be posted/appointed in absence of sanctioned posts, but no reply was given and Shri Dixit tried to shift this burden on to the shoulder of State Govt.

39. Whenever any argument is advanced by the Counsel, specifically Senior Counsel, then he should also argue on the possible consequences, but Shri Dixit left his arguments in the mid way, by saying that it is for the State Govt. to argue as to whether it would have uncontrolled power to appoint any number of employees or no appointment can be made at all. Thus, it is clear that Shri Dixit has argued the matter half heartedly, without making any attempt to take his arguments to the logical end.

40. However, it is submitted by Counsel for State and the Municipal Corporation that existing setup has been sanctioned and posts can be filled up on the basis of sanctioned posts mentioned in the set up.

Shri Pawan Dwivedi, Counsel for Respondent no. 6

41. It is submitted by Shri Dwivedi, that the ineligibility of Dr. Anuj Sharma, to hold the post of Health Officer has already been considered by this Court on the previous occasions and he has also been relieved in compliance of the interim order dated 13-3-2025, and subsequently, he has also made a categorical statement, that he is ready to work on his substantive post in any part of the State, therefore, submitted that he has nothing more to add.

Other Counsels for the private respondents

42. All other Advocates, namely Shri Prashant Sharma, Shri Shyam Sharma, Shri Ankur Maheshwari Shri Nirmal Sharma, Shri S.K. Sharma, Shri Sanjay Kumar Mishra, Shri Ashok Dohare, Shri Kamlesh Kori, Shri Dharmendra Nayak, who are appearing for other private respondents submitted that they would adopt the arguments advanced by Shri S.S. Kushwaha, Shri Gaurav Mishra, Shri M.P.S. Raghuvanshi, Shri Harish Dixit, Advocates, therefore, they would not like to add anything.

Scope of interference in this petition

43. This petition can be bifurcated into two parts i.e., Whether the persons who were sent on deputation/ transfer on deputation were eligible to hold the posts and Whether deputation/transfer on deputation of private respondents is bad on account of Colourable Exercise of Power?

Discussion**What is the meaning of Deputation/Transfer on Deputation**

44. The Supreme Court in the case of **State of Punjab Vs. Inder Singh and others** reported in (1997) 8 SCC 372 has held as under :

18. The concept of “deputation” is well understood in service law and has a recognised meaning. “Deputation” has a different connotation in service law and the dictionary meaning of the word “deputation” is of no help. In simple words “deputation” means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the Recruitment Rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority who controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post. The law

on deputation and repatriation is quite settled as we have also seen in various judgments which we have referred to above. There is no escape for the respondents now to go back to their parent departments and working there as Constables or Head Constables as the case may be.

45. The Supreme Court in the case of **Union of India Vs. Bhanwar Lal Mundan** reported in (2013) 12 SCC 433 has held as under :

11. It is not in dispute that the respondent was sent on deputation and his lien in the parent department continued and hence, it was obligatory on the part of the authorities in the parent department to intimate him when the selection process for the higher post was undertaken as he had already come within the zone of consideration. In this context, we may refer with profit to the authority in *D.M. Bharati v. L.M. Sud* wherein the Court was dealing with a case whether the employee had got a promotion in the department to which he was sent on deputation. While considering the effect of the said promotion after repatriation the Court observed thus: (SCC p. 167, para 7)

“7. ... that the appellant’s promotion as junior draftsman and proposed promotion as Surveyor-cum-Draftsman in the Town Planning Establishment cannot confer any rights on him in his parent department. When he left the Municipal Corporation and joined the Town Planning Establishment he was a tracer and he can go back to the Estate Department or any other department of the Municipal Corporation only to his original post i.e. as tracer, subject to the modification that, if in the meantime he had qualified for promotion to a higher post, that benefit cannot be denied to him.”

Thus, the repatriation has to be to the original post and benefit of promotion in the department to which an employee is deputed is of no consequence, subject to his entitlement of status otherwise available in the parent department.

12. In *Puranjit Singh v. UT of Chandigarh* it has been held that when a deputationist is repatriated he cannot claim promotions in the parent department on the basis of officiation in a higher post in the borrower organisation.

13. In *State of Punjab v. Inder Singh* the learned Judges elaborately adverted to the concept of deputation and the right of a deputationist and in that context opined thus: (SCC pp. 384-85, para 18)

“18. The concept of ‘deputation’ is well understood in service law and has a recognised meaning. ‘Deputation’ has a different connotation in service law and the dictionary meaning of the word ‘deputation’ is of no help. In simple words ‘deputation’ means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the Recruitment Rules.”

46. The Supreme Court in the case of **Ashok Kumar Ratilal Patel Vs. Union of India** reported in **(2012) 7 SCC 757** has held as under :

13. Ordinarily transfers on deputations are made as against equivalent post from one cadre to another, one department to another, one organisation to another, or one Government to another; in such case a deputationist has no legal right in the post. Such deputationist has no right to be absorbed in the post to which he is deputed. In such case, deputation does not result into recruitment, as no recruitment in its true import and significance takes place as the person continues to be a member of the parent service.

14. However, the aforesaid principle cannot be made applicable in the matter of appointment (recruitment) on deputation. In such case, for appointment on deputation in the services of the State or organisation or State within the meaning of Article 12 of the Constitution of India, the provisions of Article 14 and Article 16 are to be followed. No person can be discriminated nor is it open to the appointing authority to act arbitrarily or to pass any order in violation of Article 14 of the Constitution of India. A person who applies for appointment on deputation has an indefeasible right to be treated fairly and equally and once such person is selected and offered with the letter of appointment on deputation, the same cannot be cancelled except on the ground of non-suitability or unsatisfactory work.

47. The Supreme Court in the case of **Umapati Choudhary Vs. State of Bihar and another** reported in **(1999) 4 SCC 659** has held as under :

8. Deputation can be aptly described as an assignment of an employee (commonly referred to as the deputationist) of one department or cadre or even an organisation (commonly referred to as the parent department or lending authority) to another department or cadre or organisation (commonly referred to as the borrowing authority). The necessity for sending on deputation arises in public interest to meet the exigencies of public service. The concept of deputation is consensual and involves a voluntary decision of the employer to lend the services of his employee and a corresponding acceptance of such services by the borrowing employer. It also involves the consent of the employee to go on deputation or not. In the case at hand all the three conditions were fulfilled. The University, the parent department or lending authority, the Board, the borrowing authority and the appellant, the deputationist, had all given their consent for deputation of the appellant and for his permanent absorption in the establishment of the borrowing authority. There is no material to show that the deputation of the appellant was not in public interest or it was vitiated by favouritism or mala fide. The learned Single Judge in the previous writ petition had neither quashed the deputation order nor issued any direction for its termination. Indeed the learned Single Judge had dismissed the writ petition. No material has been placed before us to show that between November 1987 when the judgment of the Single Judge was rendered and December 1991 when the Division Bench disposed of the writ petition filed by the appellant the petitioners of the previous case had raised any grievance or made any complaint regarding non-compliance with the directions made in the judgment of the learned Single Judge. In these circumstances the Division Bench was clearly in error in declining to grant relief to the appellant. Further, the appellant has, in the meantime, retired from service, and therefore, the decision in the case is relevant only for the purpose of calculating his retiral benefits.

48. The Supreme Court in the case of **Prasar Bharti Vs. Amarjeet Singh** reported in **(2007) 9 SCC 539** has held as under :

13. There exists a distinction between “transfer” and “deputation”. “Deputation” connotes service outside the cadre or outside the parent department in which an employee is serving. “Transfer”, however, is limited to equivalent post in the

same cadre and in the same department. Whereas deputation would be a temporary phenomenon, transfer being antithesis must exhibit the opposite indications.

14. There cannot be any doubt whatsoever that ordinarily no employee can be transferred without his consent from one employer to another. (See *Jawaharlal Nehru University v. Dr. K.S. Jawatkar*.) But, the said principle has no application in the instant case.

15. A transfer of an employee may be governed by the provisions of a statute or the terms and conditions of a contract of service.

49. The Full Bench of this Court, in the case of **Indore Nagar Nigam Karamchari Congress Vs. State of M.P.** reported in **1998 (1)MPLJ 449** has held as under :

“5. In the case of *Dr. Vasant* (supra), the Division Bench of this Court relying on the decision of the case *Sate of M.P. v. Shankerlal* (supra) held that the provisions of sub-sections (5) and (6) of section 58 of the Amending Act, 1982, is valid. However, subsequently two decisions given by Hon. Supreme Court in one *General Officer, Commanding-in-Chief v. Subhash Chandra*, AIR 1988 SC 876 in *Jawaharlal Nehru University v. K.S. Jawatkar*, AIR 1989 SC 1577 this reference is made that how far the law is laid down in the case of *Dr. Vasant* (supra) hold good.

In *Subhash Chandra's* case (supra) it was a case in which a transfer of an employee serving in Cantonment Board to another Cantonment Board, was challenged. Dr. Subhash Chandra Yadav was appointed as a sub-charge Cantonment General Hospital, Lucknow and he was transferred to Cantonment General Hospital, Varanasi. This was challenged before the Allahabad High Court by challenging the validity of Rule 5-C of the Cantonment Boards servants Rules, 1937 as *ultra vires* of the provisions of the Cantonment Act, 1924. Rule 5-C gave a power to Commanding-in-Chief to transfer the employee from one Cantonment Board to another Cantonment Board. But section 280 of the Cantonments Act which confers the power on the Central Government to make rules, did not provide any power to frame the rules for transfer. Prior to the amendment of Clause (c) of section 280 of the Cantonment Act, the provision as stood was as under:-

"S.280 Power to make rules. - The Central Government may after previous publication, make rules to carry out the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for. all or any of the following matters, namely:

(a) to (bb).....

(c) the tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence and other conditions service of servants of Boards."

Therefore, it was observed by their Lordships of the Supreme Court that clause (c) of section 280 of the Cantonments Act, did not confer power on the Central Government to frame rules regarding conditions of service which necessary includes the transfer of employees of the Cantonment Board. It is held that Rule 5-C which was inserted in the Rules by a notification dated November 23, 1972, provided for the transfer of the employees of the Cantonment Boards from one Board to another, was on the face of it contrary to the rule making power of the Central Government and therefore, it was amended in 1983. In these circumstances, their Lordships of the Supreme Court have come to the conclusion that insertion of Rule 5-C was void being contrary to and excess of rule making power of the Central Government as it contained in unamended Clause (c) of sub-section (2) of section 280 of the Cantonments Act. In this background, their Lordships of the Supreme Court observed in para 12 of the judgment as under:

"When Rule 5-C was inserted into the Rules, it was void as being contrary to and in excess of the rule making power of the Central Government as contained in the unamended clause (c) of sub-section (2) of section 280 of the Cantonments Act. It does not become valid merely because of the amendment of clause (c), inter alia, conferring power on the Central Government to frame rules relating to conditions of service."

Therefore, a close reading of the aforesaid judgment would show that what primary persuaded by their Lordships was that the rule 5-C which enables the authorities to transfer the incumbent from one Cantonment Board to another, was unauthorised as the Act did not provide framing of such rules and ultimately, it was found that Rule 5-C is *ultra vires* of the Act and the same was struck down, though while striking down, the Lordships made the above observation.

6. But so far as the present rule is concerned, it only provides to a transfer and it does not change the employer of the incumbent. It only lays down that the State Government has a power to send any

officer or servant of the Municipal Corporation to another on deputation, but for all purposes of promotion and other benefits, the incumbent will be treated to be in his parent department/Corporation, that means his lien will be kept with Corporation and he will be entitled to a deputation allowance also. Thus, these conditions amply safe-guard the interest of the incumbent and it would not have the effect of terminating of service of the employee in that parent Corporation. Therefore, the reasoning of the aforesaid Judgment will not be available to the petitioners so as to strike down provisions of sub-sections (5) and (6) of section 58 of the Act, 1988.

7. The next case in the line which has been relied on is *Jawaharlal Nehru University* (supra) this was a judgment in which Assistant Professors who were serving in Jawaharlal Nehru University, were transferred to Centre of Post Graduate Studies, Imphal established by the University at Manipur. Subsequently, this centre was transferred to Manipur University. Syndicate of the J. N. University provided for transfer of the Centre to the Manipur University and it was resolved that the centre will become a part of Manipur University and it was further resolved that the member of faculty employed by the Jawaharlal Nehru University, Centre of Post Graduate Studies, Imphal, immediately before its merger into the University would on and from that date become members of the staff of the Manipur University. This was challenged and in that context, their Lordships held that as a matter of fact, the contract of service of the incumbent was with the Jawaharlal Nehru University and no law can convert that contract into a contract between the incumbent and the Manipur University without simultaneously making it, either expressly or by implication consent of that incumbent. In that context, their Lordships quashed the services of the employees of Centre Post Graduate studies from Jawaharlal Nehru University to Manipur University. This case is entirely on different footings and here the employer is not sought to be changed. The employees of J. N. University were transferred to Manipur University without their consent by express or by desire, and that is not the case here. Here, it is only a temporary transfer and his lien will on kept with the parent Corporation. Thus, this case also does not help the petitioner.

8. The next case which Shri Vivek Tankha has heavily relied is the decision of this Court in the case of *L.P. Sarabhai v. State of M.P.*, *M.P. No. 387 of 79 decided on 4-7-1979*. In this case sub-section (5) of section 58 of the Act came up for consideration and was in force and that provision reads as under:-

"Section 58(5) - The State Government may, subject to maintenance of lien on the post held in the parent Corporation,

transfer on deputation any Officer or servant of the Corporation carrying a maximum scale of pay exceeding Rs. 400/- to any other Municipal Corporation:

Provided that no such transfer on deputation shall be made except:-

(i) with the prior consultation of the concerned Municipal Corporation;

(ii) on the same post and in the same status;

and the terms and conditions of deputation of the Officer or servant of the Corporation including disciplinary control shall be such as the State Government may, by general or special order, in consultation with the Corporation concerned, specify."

This provided that the State Government can transfer any person subject to maintain the lien of the incumbent on the post in the parent Corporation of any officer or servant carrying a maximum scale of pay exceeding Rs. 400/- subject to condition that no transfer on deputation shall be made except with the prior consultation of the concerned Corporation and on the same post and same status. It further lays down that the terms and conditions of deputation of the officer or servant of the Corporation including disciplinary control shall be such by general or special order in consultation with the Corporation, may specify. It was observed that deputation means that a person who goes on deputation, goes with his consent and it was further observed that lien means a right to occupy the particular post that is the employee going on deputation, has a right to the post held in the parent Corporation. In this back ground, their Lordships have held that the retention of lien on the post in the parent Corporation signifies that the officer or servant concerned goes on deputation with his consent and back after a period of deputation for which he agreed to go to another Corporation. But without his consent, the order of the State Government is invalid being not in conformity with section 58(5) of the Act. But in that case also, the Court did not strike down the provisions of section 58(5), but it was only held that no person can be sent on deputation without his consent. The validity of this provision was not struck down but the order of transfer was struck down.

9. There is one thing to have a power and the another thing to misuse it. So far as conferring of power by the Amendment Act, 1988 is concerned it cannot be possibly said that the Legislature was not competent nor it could be said that it is violative of Articles 14 and 16 of the Constitution of India.

10. So far as the competent of Legislature is concerned, under entry 5, List II, Schedule VII of the Constitution of India provides that the State Legislature is competent to legislate on this item and in purported exercise of power, the State Legislature amend sub-sections (5) and (6) of section 58 of the Act. Now coming to Articles 14 and 16 of the Constitution, simply confirming of this power does not violate the Articles 14 and 16. The only arbitrary exercise of power can render that order being the violative of Articles 14 and 16 of the Constitution of India. Therefore, in purported exercise of this power, if any transfer has been issued which is arbitrary then the same can be struck down. Moreso, in the present case, the lien of the incumbent is retained in his parent post and his benefits have also been safeguarded.

10(a). Moreso, all the Corporations receive sufficient grant from the State Government and State exercise the supervisory control over all Corporations. Part IX, Chapter XXXVI of the Act gives a controlling power to the State Government. As such the Government can exercise this power. This Chapter deals with the control and supervision of the Government. When the Government has an extensive control over the working of the Corporation and it can certainly exercise the power of transfer of incumbent from one Corporation to another. This is a very important feature which was not come up in any of the decision of the Hon'ble Supreme Court cited by Shri Vivek Tankha, learned counsel for the petitioners and this aspect was also not considered in the case of *Sarabhai* (supra). Once the power has been conferred by the Legislature by enacting the valid law then the law cannot be rendered invalid because of improper exercise of power. Their Lordships of the Hon'ble Supreme Court have also made a distinction between the competence to enact the law and improper exercise of the same. Their Lordships of the Hon. Supreme Court in *D. K. Trivedi v. State of Gujarat*, AIR 1986 SC 1323, Para 50 observed as under:

"Where a statute confers discretionary powers upon the executive or an administrative authority, the validity or constitutionality of such power cannot be judged on the assumption that the executive or such authority will act in an arbitrary manner in the exercise of the discretion conferred upon it. If the executive or the administrative authority acts in an arbitrary manner, its action would be bad in law and liable to be struck down by the Courts but the possibility of abuse of power or arbitrary exercise of power cannot invalidate the statute conferring the power or the power which has been conferred by it."

It is clear that simply because a power is capable of being misused or in arbitrary manner by executive is no ground to hold that is liable to be struck down by the courts. Similarly in the case of *Mehmood Alam Tariq v. State of Rajasthan*, AIR 1988 SC 1451, their Lordships observed as para 11 of the judgment as under:

"It is important to keep in mind that in this case the results of the viva voce examination are not assailed on grounds of mala fides or bias etc. The challenge to the results of the viva voce is purely as a consequence and incident of the challenge to the vires of the rule. It is also necessary to reiterate that a mere possibility of abuse of a provision does not, by itself, justify its invalidation. The validity of a provision must be tested with reference to its operation and efficacy in the generality of cases and not by the freaks or exceptions that its application might in some rare cases possibly produce. The affairs of Government cannot be conducted on principles of distrust. If the selectors had acted mala fide or with oblique motives, there are administrative Law remedies to secure reliefs against such abuse of powers. Abuse vitiates any power."

11. In this background, we are of the view that section 58(5) and (6) of the Act are not ultra vires and it is valid. But this power should be exercised with great caution and while transferring the employee from one Corporation to another, there should be a valid reason. Since the lien of incumbent is kept in the parent Corporation, therefore, tenure or the period of lien should be specified and it should not be for all time to come. The State Government should also exercise this power very sparingly in exceptional case as observed by their Lordships of the Supreme Court in *State of M.P. v. Shankerlal* (supra) as quoted above."

50. Thus, it is clear that transfer on deputation is a temporary transfer of an employee from his parent department to another department, against equivalent post from one cadre to another, for a limited period. Such employee will hold lien on his substantive post held by him in his parent department and he cannot claim any right to remain on transfer on deputation and has no legal right to be absorbed in the post to which he is deputed. Similarly, deputation means that service outside the cadre i.e., to another department on temporary basis. After the expiry of his term, he has to come back to his parent department to occupy the same position which he was holding at the time of his deputation.

51. Furthermore, in the case of **Indore Nagar Nigam Karamchari Congress (Supra)** the Full Bench of this Court while upholding the vires of Section 58(5) and (6) of Municipal Corporation Act, has held that such power should be exercised with caution and sparingly for valid reasons as well as the tenure and period of lien should be specifically mentioned and it should not be for all times to come.

52. Even otherwise, it was also argued by Shri M.P.S. Raghuvanshi, Senior Advocate, that if a person is sent on deputation/ transfer on deputation, then as a deputationist he will not be holding any regular post.

53. Rule 110 of M.P. Fundamental Rules read as under :

F.R. 110. Authorities competent to transfer a Government servant to foreign service.-(a) No Government servant may be transferred to foreign service against his will:

Provided that this sub-rule shall not apply to the transfer of a Government servant to the service of a body, incorporated or not, which is wholly or substantially owned or controlled by the Government.]

(b) A transfer to foreign service outside India may be sanctioned by the Governor-General in Council.

Note.-The Government of Madras is authorized to transfer to service in Ceylon any Government servant other than a member of an All India Service.

(c) Subject to any restriction which the Governor-General in Council may by general order impose in the case of transfer to the service of an Indian State, a transfer to foreign service in India may be sanctioned by the Local Government under which the Government servant transferred is serving.

54. Rule 9(7) of M.P. Fundamental Rules read as under :

“Foreign Service” means service in which a Government servant receives his pay with the sanction of government from any source other than the Consolidated Fund of India or the Consolidated Fund of any state or the Consolidated Fund of a Union Territory.

55. Lien has been defined under Rule 9(13) of Fundamental Rules which reads as under :

“(13) "Lien" means the title of a Government servant to hold substantively, either immediately or on the termination of a period or periods of absence, a permanent post including a tenure post, to which he has been appointed substantively.”

56. Thus, it is clear that power of transfer on deputation has to be exercised very sparingly and cautiously. This must be in the public interest only. Furthermore as required under Section 58(6) of M.P. Municipal Corporation Act, the Govt. must point out the period and transfer on deputation cannot be for all time to come. Even if person is sent by transfer on deputation, still that person will be holding his lien on his substantive post in the parent department. Furthermore, before sending a person on transfer by deputation, the consent of the parent department as well as borrowing department should also be taken apart from the consent of the employee.

Colourable Exercise of Power

57. The Supreme Court in the case of **State of Tamil Nadu and others Vs. K. Shyam Sunder and others** reported in (2011) 8 SCC 737 has held as under :

II. Colourable legislation

36. In *State of Punjab v. Gurdial Singh*, this Court held that when power is exercised in bad faith to attain ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal, it is called colourable exercise of power. The action becomes bad where the true object is to reach an end different from the one for which the power is entrusted, guided by an extraneous consideration, whether good or bad but irrelevant to the entrustment. When the custodian of power is influenced in exercise of its power by considerations outside those for promotion of which the power is vested, the action becomes bad for the reason that power has not been exercised bona fide for the end design.

58. The Supreme Court in the case of **G. Jayalal Vs. Union of India** reported in (2013) 7 SCC 150 has held as under :

17.....In this context, we may refer with profit to the decision in *State of A.P. v. Goverdhanlal Pitti* wherein this Court has ruled thus : (SCC p. 744, paras 12-13)

“12. ... ‘Legal malice’ or ‘malice in law’ means ‘something done without lawful excuse’. In other words, ‘it is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite. It is a deliberate act in disregard of the rights of others’. (See *Words and Phrases Legally Defined*, 3rd Edn., London Butterworths, 1989.)

13. Where malice is attributed to the State, it can never be a case of personal ill-will or spite on the part of the State. If at all it is malice in legal sense, it can be described as an act which is taken with an oblique or indirect object.”

A similar view has been expressed in *W.B. SEB v. Dilip Kumar Ray* and *Kalabharati Advertising v. Hemant Vimalnath Narichania*.

59. The Supreme Court in the case of **State of Punjab Vs. Gurdial Singh** reported in **(1980) 2 SCC 471** has held as under :

9. The question, then, is what is mala fides in the jurisprudence of power? Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. Pithily put, bad faith which invalidates the exercise of power — sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfactions — is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated: “I repeat . . . that all power is a trust — that we are accountable for its exercise — that, from the people, and for the people, all springs, and all must exist”. Fraud on power voids the order if it is not exercised bona fide for the end designed. Fraud in this context is not equal to moral turpitude and embraces all cases in which the action impugned is to effect some object which is beyond the purpose and intent of the power, whether this be malice-laden or even benign. If the purpose is corrupt the resultant act is bad. If considerations, foreign to the scope of the power or

extraneous to the statute, enter the verdict or impel the action, mala fides or fraud on power vitiates the acquisition or other official act.

60. The Supreme Court in the case of **State of Assam Vs. Banshidhar Shewbhagawan and Company** reported in (1981) 4 SCC 283 has held as under:

8.....There can be no doubt that if any authority exercised any power conferred on him by law in bad faith or for collateral purpose, it is an abuse of power and a fraud on the statute. In such a case there can be no difficulty in striking down that act of the authority by the issue of an appropriate writ under Article 226 of the Constitution.....

61. The Supreme Court in the case of **Bajirao T. Kote v. State of Maharashtra**, reported in (1995) 2 SCC 442 has held as under :

4..... That exception is that if there is a colourable exercise of power the declaration will be open to challenge at the instance of the aggrieved party. If it appears that what the Government is satisfied about is not a public purpose but a private purpose or no purpose at all, the action of the Government would be colourable as not being relatable to the power conferred upon it by the Act and its declaration will be a nullity.....

62. Thus, when the power is conferred on the authority, but that power is exercised for a purpose different from what was intended under the law, then it would necessarily mean that such act is bad on account of colourable exercise of power.

Whether an employee who was allotted particular Municipal Corporation or employee of Municipal Council can be transferred or they are required to be sent on deputation/ transfer on deputation only

63. A specific question was put to the Counsel for the parties, that an employee who was allotted particular Municipal Corporation after undergoing a centralized recruitment process or a person who is an employee of Municipal

Council, can be transferred to Municipal Corporation, Gwalior or he should have been sent by transfer on deputation.

64. It was fairly conceded by Counsel for the State and respondent no. 5, that such an employee can be sent to the Municipal Corporation, Gwalior only by way of deputation/ transfer on deputation and even if he is transferred, still he has to be treated as a transfer by deputation.

What is the authority of the State Govt. to send the employees to Municipal Corporation, Gwalior on deputation/transfer on deputation?

65. As already pointed out, the State Govt. can send the employee on deputation by exercising its power under Section 58(3) and (5) of M.P. Municipal Corporation Act, but as held by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**, such power has to be exercised very sparingly and cautiously and it should be only in public interest and not otherwise. Furthermore, deputation or transfer on deputation must be for a limited period and not for all time to come and the period of transfer on deputation / deputation should also be mentioned in the order.

Recommendations made by Ministers

66. While the case was being argued, the Counsel for the State read out the records of those employees which were available with him. From some of the records, it is clear that the proceedings for sending an employee on deputation/transfer on deputation were initiated on the recommendation of Ministers. It is submitted by Shri M.P.S. Raghuvanshi that since, none of the Minister has been impleaded, therefore, malafide cannot be considered in absence of a person against whom the allegations of malafide are being made.

67. Now the only question for consideration is that whether recommendation made by Minister by itself would make the order of deputation/ transfer on deputation bad, or the order of deputation has to pass the test laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**.

68. The Supreme Court in the case of **Mohd. Masood Ahmad v. State of U.P.**, reported in (2007) 8 SCC 150 has held as under :

8. Learned counsel for the appellant submitted that the impugned transfer order of the appellant from Muzaffarnagar to Mawana, District Meerut was made at the instance of an MLA. On the other hand, it has been stated in the counter-affidavit filed on behalf of Respondents 1 and 2 that the appellant has been transferred due to complaints against him. In our opinion, even if the allegation of the appellant is correct that he was transferred on the recommendation of an MLA, that by itself would not vitiate the transfer order. After all, it is the duty of the representatives of the people in the legislature to express the grievances of the people and if there is any complaint against an official the State Government is certainly within its jurisdiction to transfer such an employee. There can be no hard-and-fast rule that every transfer at the instance of an MP or MLA would be vitiated. It all depends on the facts and circumstances of an individual case. In the present case, we see no infirmity in the impugned transfer order.

69. Therefore, it is clear that where a proceeding has been initiated on the basis of recommendation made by Minister, then the State has to establish that order of deputation/transfer on deputation, which was passed on the recommendation of Minister was in the public interest, for limited period as well as it was passed after considering the case cautiously. However, sending a person on deputation/transfer on deputation, on mere recommendation of Minister would not serve the purpose and such order would be bad in law.

70. So far the submission made by Shri M.P.S. Raghuvanshi, that since none of the Minister has been impleaded in the writ petition as respondents therefore, the recommendations made by Minister cannot be scrutinised is concerned, the same is misconceived and is hereby rejected.

71. As already held, a recommendation made by Minister cannot be said to be a malafide action. Passing of an order of deputation/transfer on deputation without any public interest would amount to colourable exercise of power. Therefore, non-impleadment of Minister by itself would not be an impediment

in examining the orders of deputation/transfer on deputation passed by the State or by State authorities.

Whether the State Govt. can send the employees to the Municipal Corporation, Gwalior in contravention of Rules 2000?

72. None of the Counsel for the parties, argued that the State Govt. can act contrary to what is provided under Rules 2000. As already pointed, the only half hearted argument raised by Shri Dixit was that there is no sanctioned strength, therefore, the Rules 2000 cannot be implemented, but Shri Dixit did not argue as to whether the State Govt. would get unfettered and uncontrolled right to send any person on deputation in contravention of Rules 2000.

73. Although it was argued by Shri M.P.S. Raghuvanshi, that by sending four Additional Commissioners, the State Govt. did not commit any mistake because proposal to enhance the sanctioned strength of the Add. Commissioner is already under consideration, but the said argument cannot be accepted.

74. The power to enhance the total number of sanctioned posts, rest with the State Govt. and admittedly, the State Govt. has not accepted the proposal so far and has not enhanced the sanctioned strength of Additional Commissioner from 2 to 4. Once, the State Govt. itself has not enhanced the total number of sanctioned posts of Add. Commissioner, then four Add. Commissioners against two sanctioned posts out of which only one can be filled by deputation cannot be send. Thus, in absence of any power of the State Govt. to act contrary to the Rules, 2000, it is held that the State Govt. cannot act contrary to the provisions of Rules 2000, and cannot send the employees on deputation/transfer on deputation in excess of what is provided under the Rules, 2000 or to such posts which cannot be filled up by deputation/transfer of deputation.

75. Even if there is any shortage of employees, then the State Govt. should have insisted the Municipal Corporation, Gwalior to fill up the posts by regular appointment/promotion, but could not have send the employees on

deputation/transfer on deputation contrary to the Rules, 2000 and that too, without prescribing any period of deputation/transfer on deputation.

Whether eligibility or suitability of the employees who have been sent on deputation can be considered by this Court?

76. The Supreme Court in the case of **Rajesh Awasthi v. Nand Lal Jaiswal**, reported in **(2013) 1 SCC 501** has held as under :

19. A writ of quo warranto will lie when the appointment is made contrary to the statutory provisions. This Court in *Mor Modern Coop. Transport Society Ltd. v. Govt. of Haryana* held that a writ of quo warranto can be issued when appointment is contrary to the statutory provisions. In *B. Srinivasa Reddy*, this Court has reiterated the legal position that the jurisdiction of the High Court to issue a writ of quo warranto is limited to one which can only be issued if the appointment is contrary to the statutory rules. The said position has been reiterated by this Court in *Hari Bansh Lal* wherein this Court has held that for the issuance of writ of quo warranto, the High Court has to satisfy itself that the appointment is contrary to the statutory rules.

* * * *

22. We fully agree with the learned Senior Counsel for the appellant that suitability of a candidate for appointment does not fall within the realm of writ of quo warranto and there cannot be any quarrel with that legal proposition. The learned Senior Counsel also submitted that, assuming that the Selection Committee had not discharged its functions under sub-section (5) of Section 85 of the Act, it was only an omission which could be cured by giving a direction to the Selection Committee to comply with the requirement of sub-section (5) of Section 85 of the Act. The learned Senior Counsel submitted that since it is a curable irregularity, a writ of quo warranto be not issued since issuing of writ of quo warranto is within the discretion of the court. The learned Senior Counsel made reference to the judgment of the Court in *R. v. Speyer*.

77. The Supreme Court in the case of **B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn.**, reported in **(2006) 11 SCC 731** has held asunder :

Writ of quo warranto

43. Whether a *writ of quo warranto* lies to challenge an appointment made “until further orders” on the ground that it is not a regular appointment? Whether the High Court failed to follow the settled law that a *writ of quo warranto* cannot be issued unless there is a clear violation of law? The order appointing the appellant clearly stated that the appointment is until further orders. The terms and conditions of appointment made it clear that the appointment is temporary and is until further orders. In such a situation, the High Court, in our view, erred in law in issuing a *writ of quo warranto* the rights under Article 226 which can be enforced only by an aggrieved person except in the case where the writ prayed for is for *habeas corpus*.

44. In the instant case, the power to appoint the Managing Director of the Board is vested in the Board under Section 4(2) of the Act. Neither the Act nor the Rules prescribed any mode of appointment or tenure of appointment. When the mode of appointment, tenure of appointment have been left to the discretion of the Government by the Act and the Rules, and the Act makes it ⁷⁵³clear that the Managing Director shall hold office at the pleasure of the Government, the High Court could not have fettered the discretion of the Government by holding that Section 4(2) of the Act does not expressly give the power to the State Government to make ad hoc or contractual appointment. When the Act and the statutory Rules have not prescribed any definite term and any particular mode, the High Court could not have read into the statute a restriction or prohibition that is not expressly prohibited by the Act and the Rules. It is well settled that when the statute does not lay down the method of appointment or term of appointment and when the Act specifies that the appointment is one of sure tenure, the appointing authority who has the power to appoint has absolute discretion in the matter and it cannot be said that discretion to appoint does not include the power to appoint on contract basis. An appointment which is temporary remains temporary and does not become permanent with the passage of time. The finding recorded by the learned Single Judge that the appointment is bad for the reason that the appointment which was made on temporary basis has continued for nearly 2 years is wholly contrary to law particularly when the Act and the Rules do not stipulate maximum period of appointment. The High Court, in our view, gravely erred in issuing a *writ of quo warranto* when there is no clear violation of law in the appointment of the appellant.

45. The official memorandum dated 23-12-1994 on a plain reading of it applies only to government servants. It has no manner of application to the employees or servants of the statutory boards. The

appellant is not a retired government servant. His appointment as Managing Director of the Board is not a post in government service. The High Court has erred in law in applying the said official memorandum to the appointment of the appellant which is governed only by the Act and the Rules. Even otherwise the High Court has failed to appreciate that the official memorandum running counter to the statutory provisions is ineffective and at any event cannot be enforced in a *quo warranto* proceedings.

46. The appellant joined the services of the State in the public health engineering segment of its Power Works Department in the year 1967. From the time the Karnataka Urban Water Supply and Drainage Board was established in the year 1975, he has been working in the Board having initially been appointed to its services as Assistant Engineer, thereafter, absorbed in its services and by his consistent good performance and unblemished record reached the post of Chief Engineer of the Board. He has apart from about 34 years of experience in development, establishment, maintenance and management of drinking water and drainage facilities in the urban areas has undergone several training programmes abroad in planning, appraisal, implementation of water and sanitation projects and management of development programmes for senior public health engineers.

47. Section 4(2) of the Act, 1973 mandates that the Managing Director shall possess the prescribed qualification and he shall be appointed by the Government. Rule 3 of the Karnataka Urban Water Supply and Drainage Board Rules, 1974 prescribes the qualification for appointment of the Managing Director in these words:

“3. ... The Managing Director shall be a person having experience in administration and capacity in commercial matters.”

48. There was not even a pleading that the appellant does not have experience in administration and capacity in commercial matters. The appointment of the appellant has been made by the Government in exercise of powers conferred on it by Section 4(2) of the Act. The High Court does not dispute the power of the Government to make the appointment. Mr Raju Ramachandran, learned Senior Counsel for the Union does not dispute the power of the Government to make contractual appointment. A perusal of the judgment of the High Court would only go to show that the High Court did not record any finding that the appellant does not possess the qualification prescribed by the Act and the Rules. The disqualifications for appointment as a Director of the Board are set out in Section 7 of the Act. The only disqualification that the appellant suffered was under Section 7(1)(d) of the Act. He being an employee of the Board, this

disqualification disappeared on 31-1-2004 when the appellant retired from service of the Board on superannuation. The High Court having regard to the technical nature of *quo warranto* proceedings could not have ousted the appellant from the office on the ground of an inapplicable qualification prescribed by administrative instruction dated 23-12-1994 which had no manner of application for appointment to the post of Managing Director of the Board.

49. The law is well settled. The High Court in exercise of its writ jurisdiction in a matter of this nature is required to determine, at the outset, as to whether a case has been made out for issuance of a *writ of quo warranto*. The jurisdiction of the High Court to issue a *writ of quo warranto* is a limited one which can only be issued when the appointment is contrary to the statutory rules.

78. The Supreme Court in the case of **Centre for Public Interest Litigation v. Union of India, reported in (2005) 8 SCC 202** has held as under ::

16. The basic question is whether the appointment of Respondent 3 as Chief Secretary is proper.

17. Learned counsel for Respondents 2 and 3 have submitted that as back as on 17-4-2004 Respondent 3 was promoted to the Chief Secretary's grade with a particular scale of pay. Since Respondent 3 belonged to the said cadre and grade, one of the posts on which she could be appointed is the post of Chief Secretary. Therefore, there is nothing wrong in her appointment. Though the post of Chief Secretary may belong to a particular grade/cadre, it is certainly a key post. The importance of this post was noted by this Court in *E.P. Royappa v. State of T.N.*⁵

18. The argument presently advanced is that since Respondent 3 has been continuing in the post for five months, no orders should be passed regarding her appointment till the Commission gives its report. Had this consideration weighed with the State Government when it made the appointment there may not have been any difficulty. It could have, considering the importance of the post, awaited the report of the Commission headed by Mr Justice K.T. Thomas. It is not the case of Respondent 2, the State of U.P. that no other officer is suitable to hold that post or that the services of Respondent 3 are so indispensable that none but she should be appointed as the Chief Secretary. This is purely a case of justifying an action. Linked with it is the question of transparency in action. It is true that the allegations against Respondent 3 have to be established. It is often said that justice should not only be done but it should appear to have been done. Lord

Denning in *Metropolitan Properties Co. v. Lannon*⁶ said : (All ER p. 310 D)

“Justice must be rooted in confidence; and confidence is destroyed when right-minded people go away thinking: ‘The Judge was biased.’”

The logic is equally applicable to governmental action and the Government. The State Government could have avoided the washing of dirty linen which as contended by learned counsel for Respondents 2 and 3 is the sole object of the writ petition.

19. We do not think it necessary to delve into the question of maintainability of the writ petition as the same, as noted at the threshold appears to be an offshoot of the earlier petition.

20. The time has come when the postings of officers holding sensitive posts should be done in transparent manner giving no scope for any grievance. It is true that grievances can be made or allegations can be levelled for ulterior motive or with the intention of damaging the reputation of an officer who is likely to be appointed in a sensitive post, very often at the behest of persons angling for the post. In the peculiar background facts it was really desirable for the State Government to steer clear of controversy and not to post Respondent 3 as the Chief Secretary. By doing it, it has unnecessarily created further complications and invited criticism. We, therefore, direct the State Government to transfer Respondent 3 to some other post in the cadre/grade to which she belonged. The question of her suitability to be included in the cadre/grade, shall be examined in the writ petition itself. For the present, we do not express any opinion on that issue. The necessary steps for effectuating our order shall be taken within seven days. We make it clear that we have not expressed any opinion on the merits of the allegations as the matter is pending before the High Court and Justice Thomas Commission.

79. Thus, where a person is posted on a post for which he is not holding the minimum qualification, then a writ of quo warranto can be issued. However, this Court cannot consider the suitability of a person. Thus, in nutshell, this Court can consider the eligibility but not suitability.

Whether the action of the State Govt. in sending the employees on deputation/transfer on deputation to Municipal Corporation is result of Colourable exercise of power or not?

80. This aspect shall be considered by considering the case of each and every private respondent independently.

81. **At the outset, it is pointed out that the State Counsel has submitted that files of only 30 persons pertaining to their *deputation/ transfer on deputation* have been received and the files of other persons have not been sent.**

82. This Court by order dated 16-4-2025 had also directed as under :

44. At the cost of repetition, respondents No.1 and 3 are also specifically directed to file detailed reply in respect of each and every person who has been sent on “deputation/deputation by transfer” including the question as to why some of them have been sent on deputation in excess of sanctioned strength and why some of them have been sent on deputation where Rule does not provide for filling up the post by deputation.

45. The State Government is also directed to clarify that why persons who have been sent on deputation are not interested in serving their parent department and why persons are interested in getting themselves transferred to Municipal Corporation, Gwalior on deputation.

83. Thus, while considering the case of each and every private respondent, the aforesaid aspect shall be kept in mind.

Conclusion regarding individual officer/employee

84. For the sake of convenience, this Court would like to summarize the case of each and every private respondent in tabular form :

Name	Date of Posting in Municipal Corporation, Gwalior	Post	Document No. of return and whether file pertaining to deputation was provided or not	Whether post can be filled up by Deputation or not
Shri Sangh Priya	29-01-2025	Commissioner	4477/25/ only order of transfer was	Can be filled up Under

			provided and it was submitted by State Counsel that except transfer order, there is no other file	Section 54 of Municipal Corporation Act, but no order under Section 54 of Municipal Corporation Act has been passed.
Smt. Rajni Shukla	7-2-2022	Add.Commissioner	4562/25/ file was not provided	4 Against One Post
Shri Vijay Raj	14-2-2023	Add.Commissioner	4560/25/ file was not provided	4 Against One Post
Shri Munish Sikarwar	23-2-2024	Add.Commissioner	4561/25/ file was not provided except general proposal of various officers including Shri Munish Sikarwar	4 Against One Post
Shri Anil Kumar Dubey	13-7-2023	Add.Commissioner	4573/25/ file was not provided	4 Against One Post
Dr. Dinesh Dixit	14-8-2023	Dy. Commissioner	Not Filed/ file was provided	1 post for Deputation
Shri Sunil Kumar Chauhan	10-10-2019	Asstt. Commissioner	4558/25/file provided	No post for Deputation
Shri AmarSatya Gupta	2-9-2021	Asstt. Commissioner	4548/25/ file was not provided	No post for Deputation

Shri Santosh Sharma,	5-9-2023	Accountant	4579/25	No post for Deputation
Shri Vaibhav Shrivastava	20-9-2019	Asstt. Sanitary Officer	4559/25/ file was not provided	No post for Deputation
Shri Bhanu Pratap Singh Tomar	5-10-2019	Asstt. Law Officer	4563/25/ file was not provided	No post for Deputation
Smt. Salini Singh	22-2-2018	Asstt. Engineer	4595/25/File provided	No post for Deputation
Smt. Pooja Mehkali	24-11-2022	Asstt. Engineer	4585/25/File provided	No post for Deputation
Shri AshishRajpoot,	14-7-2017	Sub-Engineer	4582/25/File provided	No post for Deputation
Shri Ashok Kumar Gupta	31-8-2017	Sub-Engineer	4582/25/ file was not provided	No post for Deputation
Shri Vishal Garg	6-3-2017	Sub-Engineer	4582/25/ file was not provided	No post for Deputation
Sushri Girishma Arya	31-7-2018	Sub-Engineer	4574/25/ file was not provided	No post for Deputation
Sushri Tanuja Verma	22-9-2018	Sub-Engineer	4583/25	No post for Deputation
Shri Ravi Godiya	4-7-2019	Sub-Engineer	458225/ file was not provided	No post for Deputation
Sushri Suruchi Bansal	31-10-2019	Sub-Engineer	4584/25/ file was not provided	No post for Deputation
Shri Anil Chauhan	19-2-2020	Sub-Engineer	4598/25/ file was not provided	No post for Deputation
Shri Ajeet Jain	19-2-2020	Sub-Engineer	4579/25/File provided	No post for Deputation
Smt. Varsha Mishra,	19-9-2020	Sub-Engineer	4581/25/File provided	No post for Deputation
Shri Rajesh Khare,	13-5-2015	Asstt. Revenue Inspector	4573/25/ file was not provided	No post for Deputation
Shri Pramod	14-7-2017	Asstt. Revenue	4573/25/ file	No post for

Pal		Inspector	was not provided	Deputation
Shri Dharmendra Dhakad,	28-5-2018	Asstt. Revenue Inspector	4590/25/File provided	No post for Deputation
Shri Jagan Agrawal	12-9-2018	Asstt. Revenue Inspector	4593/25/ file was not provided	No post for Deputation
Smt. Snehlata Parmar	14-7-2017	Asstt. Revenue Inspector	4573/25/ file was not provided	No post for Deputation
Shri Dinesh Jatav	5-10-2018	Asstt. Revenue Inspector	4594/25/File provided	No post for Deputation
Shri Satendra Singh	21-10-2020	Asstt. Revenue Inspector	4573/25/ file was not provided	No post for Deputation
Shri Rahul Dhoroliya	17-3-2020	Asstt. Revenue Inspector	4591/25/ file was not provided	No post for Deputation
Shri Abhishek Singh Bhadauriya	3-3-2019	Asstt. Revenue Inspector	4576/25/ file was not provided	No post for Deputation
Smt. Renu Tomar	3-10-2020	Asstt. Revenue Inspector	4580/25/File provided	No post for Deputation
Shri Rajkumar Koshta,	5-7-2019	Asstt. Revenue Inspector	4555/25/ file was not provided	No post for Deputation
Smt.Rupali Arya	18-9-2023	Asstt. Revenue Inspector	4573/25/File provided	No post for Deputation
Shri Prashant Rao	5-7-2023	Asstt. Revenue Inspector	4573/25/File provided	No post for Deputation
Shri Rajendra Singh Vikram,	4-9-2019	Sanitary Inspector	4553/25/ file was not provided	No post for Deputation
Shri Dharmendra Singh Parmar	5-11-2019	Sanitary Inspector	4549/25/ file was not provided	No post for Deputation
Shri Deependra Sengar,	17-3-2020	Sanitary Inspector	4550/25/ file was not provided	No post for Deputation
Smt. Ritu Agrawal	2-6-2018	Asstt. Accountant	4573/25/ file was not	No post for Deputation

			provided	
Shri Sachin Savita	28-5-2018	Stenographer Grade III	4592/25/File provided	No post for Deputation
Shri Ankit Sharma	16-7-2018	Stenographer Grade III	4551/25/File provided	No post for Deputation
Smt, Sheetal Dandotiya	28-5-2018	Dy. Sanitary Supervisor	4573/25/File provided	No post for Deputation
Shri Vivek Tyagi	5-10-2018	Dy. Sanitary Supervisor	4552/25/File provided	No post for Deputation
Shri Jitendra Singh Rajawat	25-2-2019	Dy. Sanitary Supervisor	4554/25/File provided	No post for Deputation
Shri Mahesh Pratap Singh Sikarwar	31-5-2021	Dy. Sanitary Supervisor	4557/25/File provided	No post for Deputation
Shri Bhupendra Sasode	12-9-2018	Asstt. Grade II	4578/25/File provided	No post for Deputation
Shri Hemant Kushwah	5-10-2018	Asstt. Grade III	4573/25/File provided	No post for Deputation
Shri Jitendra Singh Baghel	5-7-2019	Asstt. Grade III	4573/25/ file was not provided	No post for Deputation
Shri Ramendra Singh Gurjar	15-11-2019	Asstt. Grade III	4646/25/ file was not provided	No post for Deputation
Shri Brijendra Singh Kirar	17-3-2020	Asstt. Grade III	4573/25/ file was not provided	No post for Deputation
Sushri Nikita Sharma	17-3-2020	Asstt. Grade III	4573/25/ file was not provided	No post for Deputation
Shri Abhishek Sharma	2-8-2023	Asstt. Grade III	4573/25/File provided	No post for Deputation
Shri Vivek Shrivastava	24-3-2022	Asstt. Grade III	4573/25/File provided	No post for Deputation
Smt. Salini Gupta	31-3-2023	Asstt. Grade III	4573/25/File provided/File provided	No post for Deputation
Smt. Ruchi Yadav	2-8-2023	Dy. Sanitary Supervisor	4573/25/File provided	No post for Deputation
Smt. Sapna Chauhan	3-5-2023	Asstt. Accountant	4564/25/File provided	No post for Deputation

Sushri Sonali Parashar	15-3-2024	Asstt. Grade III	4589/25/ file was not provided	No post for Deputation
Smt.Priyanka Dwivedi	15-3-2024	Asstt. Grade III	457525/ file was not provided	No post for Deputation
Shri Sandeep Mishra	25-9-2023	Asstt. Revenue Inspector	4577/25/File provided	No post for Deputation
Kuldeep Parashar	31-3-2023	Dy. Sanitary Supervisor	4556//25 /File provided	No post for Deputation
Dr. Anuj Sharma	18-8-2023	Health Officer	Earlier file was provided and after considering in detail, the same was returned back	No post like Health Officer is in existence

Dr. Anuj Sharma, Veterinary Doctor, sent on deputation on the post of Heath Officer

85. It is submitted by Counsel for the respondent no.6/Dr. Anuj Sharma, that this Court by order dated 13-3-2025, had directed that the respondent no.6 be immediately relived from the post of Health Officer and accordingly, he was relieved and he has also joined on his substantive post i.e., Veterinary Doctor. Thereafter by order dated 19-3-2025 and detailed order dated 16-4-2025, it has already been held that respondent no. 6 was not competent to be sent on deputation to the post of Health Officer. It is submitted that the respondent no. 6 doesnot wish to add anything more specifically when the State Govt. has also admitted on 16-4-2025, that respondent no. 6 was not holding minimum qualification for the post of Health officer/Sanitary Officer.

86. Since, the Counsel for the respondent no. 6 did not submit any supplementary arguments to justify his deputation on the post of Health Officer, in Municipal Corporation, Gwalior, therefore, his order of deputation dated 18-

8-2023 by which he was sent on deputation is hereby **Quashed**. Since, the respondent no. 6 has already joined in his parent department, therefore, no more direction in respect of Dr. Anuj Sharma is required, although he did not answer several queries which were raised by this Court by different orders, which have already been reproduced. It is suffice to mention here that the order of deputation was passed by ignoring that even the Municipal Corporation, Gwalior in its NOC had specifically pointed out that the minimum qualification for the post of Health Officer is MBBS. Even the eligibility of Dr. Anuj Sharma to hold the office of Health Officer has already been considered by previous order and it has been found that he was not eligible to hold the post of Health Officer, which otherwise is a non-existing post. Thus, the order of deputation of respondent no. 6 is also bad on account of colourable exercise of power by the State, as no public interest has also been pointed out.

Commissioner

Sangh Priy, Commissioner, Municipal Corporation, Gwalior

87. The Counsel for the State submitted that the record pertaining to posting of Shri Sangh Priy, as Commissioner, Municipal Corporation has been received and provided only a copy of order of transfer of various officers, including Shri Sangh Priy. It was specifically submitted by the Counsel for the State that before issuing the posting/transfer order of Sangh Priy, no order under Section 54 of Municipal Corporation Act was passed.

88. Section 54 of Municipal Corporation Act, reads as under :

54. Appointment and removal of Commissioner.- (1) The Commissioner for the Corporation shall be appointed by the Government for a renewable period not exceeding five years.

(2) It shall be forthwith removed from office if at a meeting of the Corporation not less than three-fourths of the total number of elected councilors vote in favour of a proposition in this behalf; and he may be removed by the Government at any time if it appears to the Government that he is incapable of performing the duties of his office or has been guilty of any mis-conduct or neglect which renders his removal expedient:

Provided that when the Commissioner holds a lien on any post under the Government, he may recalled at any time by the Government.

89. Thus, it is clear that Commissioner can be appointed for a renewable period not exceeding 5 years.

90. Shri Sangh Priy, Commissioner, Municipal Corporation, Gwalior has filed his response. In his response, he has filed a copy of the order dated of transfer dated 27-1-2025. It is a general transfer order of various persons including Shri Sangh Priy. It is no where mentioned that transfer/posting of Sangh Priy as Commissioner is as per the provisions of Section 54 of Municipal Corporation Act. Furthermore, the word appointment has not been used in order dated 27-1-2025. Since, it is admitted by the Counsel for the State that no note sheet, which may indicate that the appointment of Shri Sangh Priy as Commissioner, Municipal Corporation was considered, therefore, it is clear that the State Govt. has issued the transfer order of Shri Sangh Priy in a routine manner, without realising that a Commissioner can be appointed under Section 54 of Municipal Corporation Act. Thus, it is held that the transfer of Shri Sangh Priy, as Commissioner, Municipal Corporation, Gwalior was not under Section 54 of Municipal Corporation Act.

91. Therefore, the order dated 27-1-2025 so far as it relates to transfer of Shri Sangh Priy, as Commissioner, Municipal Corporation, Gwalior is hereby **Quashed.**

92. **However, this order of quashment shall remain suspended for a period of 15 days from today, to enable the State Govt to appoint Commissioner, in Municipal Corporation, Gwalior in accordance with provisions of Section 54 of Municipal Corporation Act. Needless to mention that this order of quashment shall automatically come into force if a fresh order under Section 54 of Municipal Corporation Act is not passed within a period of 15 days from today.**

Additional Commissioners

93. As per the set up, two posts of Additional Commissioners are there in the Municipal Corporation, Gwalior. As per Rules, 2000, 50% of the sanctioned strength has to be filled up by promotion and 50% by deputation. Thus, it is clear that only 2 sanctioned posts of Additional Commissioner, only one can be filled up by deputation, whereas the State Govt. has sent four Additional Commissioners on deputation. Therefore, it is clear that at least 3 Additional Commissioners have been sent on deputation contrary to Rules 2000.

94. The contention of the Counsel for the respondents that the proposal to increase the total number of posts to Add. Commissioner to 4 is pending, therefore, if 4 Add. Commissioners have been sent by the State on deputation, then no illegality has been committed.

95. Considered the aforesaid contention.

96. As already pointed out in previous paragraph, that proposal to enhance the number of sanctioned posts of Add. Commissioner to four is pending with the State Govt. It is the State Govt. who has not approved the proposal. If the State Govt. was of the view that the number of sanctioned posts can be increased from 2 to 4, then it could have done so. But that has not been done by the State Govt. Therefore, it cannot be said that State Govt. can send four persons on deputation to the post of Add. Commissioner in anticipation of an increase in number of sanctioned posts. The State Govt. cannot act in anticipation, because the decision to increase the number of sanctioned posts is to be taken by State itself, which has not been done. Thus, what cannot be done directly, can also not be done indirectly on the pretext that the State Govt. is anticipating that it may increase the number of sanctioned posts.

97. Further more, as per Rules 2000, 50% of the sanctioned posts are to be filled up by promotion and 50% by deputation. Even assuming that the State Govt. had sent persons on deputation under misconception of fact, then still it is clear that it could have send two persons on the post of Add. Commissioner (if

the sanctioned strength is treated to be 4). Thus in any circumstance, 4 persons cannot be send on deputation as Add. Commissioner.

(i) Smt. Rajni Shukla, Add. Commissioner

98. The State has not produced the record of Smt. Rajni Shukla pertaining to her deputation.

99. **During the Course of arguments it was claimed by Counsel for Smt. Rajni Shukla, that Smt. Rajni Shukla has no personal interest in getting herself posted in Gwalior.** However, the said stand taken by Smt. Rajni Shukla is not correct. According to Counsel for Smt. Rajni Shukla, in the year 2018, Smt. Rajni Shukla was sent on deputation to the office of Commissioner, Land Record and Settlement and thereafter, she was sent on deputation to Municipal Corporation, Gwalior on 7-2-2022. Although it is submitted by Shri Gaurav Mishra, Counsel for respondent no. 5, that Rules, 2000 permits that one officer of Financial department can be sent on deputation, and Smt. Rajni Shukla is an officer of Finance Department, but the only question for consideration is that whether order of deputation of Smt. Rajni Shukla was in public interest or not?

100. Since, the State has not provided the record pertaining to deputation of Smt. Rajni Shukla, therefore, it is not clear that whether any consent was given by lending department as well as borrowing department or not? What were the considerations for sending Smt. Rajni Shukla on deputation to the post of Add. Commissioner, Municipal Corporation, Gwalior is also not known. **Why Smt. Rajni Shukla is interested in staying back in Gwalior by remaining on deputation in different departments i.e., earlier in the office of Commissioner, Land Records and Settlement and now in Municipal Corporation, Gwalior?**

101. Once an officer is appointed in a particular department, then he/she should serve the said department only and only in exceptional circumstance and that too if it is in the public interest, the employee should be send to another department on deputation, but it appears that the State Govt. and the employees are treating

deputation as a convenient method to get the posting in another department of his/her choice. That cannot be the very purpose of concept of deputation.

102. Thus it is clear that the deputation of Smt. Rajni Shukla in Municipal Corporation, Gwalior on the post of Add. Commissioner is without any public interest and it appears that She has been sent on deputation merely to oblige her. Therefore, the action of State Govt. in sending Smt. Rajni Shukla on deputation is malafide being product of colourable exercise of power. Therefore, the deputation of Smt. Rajni Shukla on the post of Add. Commissioner, Municipal Corporation, Gwalior is hereby **Quashed**. It is directed that Smt. Rajni Shukla be immediately relieved from the post of Add. Commissioner, Municipal Corporation, Gwalior, and She should immediately report back to her parent department.

(ii) Shri Vijay Raj, Add. Commissioner.

103. The record pertaining to the deputation of Shri Vijay Raj has not been produced. It was submitted by Counsel for State that on account of fire in the Vallabh Bhavan on 8-5-2024, the file pertaining to Shri Vijay Raj has burnt. However, no document has been filed to substantiate this submission. Therefore, it is held that the State Govt. has deliberately suppressed the file.

104. Shri Vijay Raj, in his reply to the Show Cause Notice has submitted that his substantive post is Add. Collector. He has further stated that even in other Municipal Corporations, officers in excess of sanctioned strength have been posted.

105. During the course of arguments, it was accepted by Counsel for Vijay Raj, that earlier he was posted as S.D.M., Lashkar, Gwalior from 2014 to 2018 and thereafter in the year 2021 he was promoted to the post of Additional Collector and by order dated 14-2-2023, he was sent on deputation to Municipal Corporation, Gwalior.

106. Since, the State has not provided the record pertaining to deputation of Shri Vijay Raj, therefore, it is not clear that whether any consent was given by

lending department as well as borrowing department or not? What were the considerations for sending Shri Vijay Raj on deputation to the post of Add. Commissioner, Municipal Corporation, Gwalior is also not known.

107. Once an officer is appointed in a particular department, then he/she should serve the said department only and only in exceptional circumstance and that too if it is in the public interest, the employee should be send to another department on deputation, but it appears that the State Govt. and the employees are treating deputation as a convenient method to get the posting in another department of his/her choice. That cannot be the very purpose of concept of deputation.

108. Thus it is clear that the deputation of Shri Vijay Raj in Municipal Corporation, Gwalior on the post of Add. Commissioner is without any public interest and it appears that he has been sent on deputation merely to oblige him. Therefore, the action of State Govt. in sending Shri Vijay Raj on deputation is malafide being product of colourable exercise of power. Thus, in the light of judgment passed by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**, the deputation order is the product of colourable exercise of power. Therefore, the deputation of Shri Vijay Raj on the post of Add. Commissioner, Municipal Corporation, Gwalior is hereby **Quashed**. It is directed that Shri Vijay Raj be immediately relieved from the post of Add. Commissioner, Municipal Corporation, Gwalior, and he should immediately report back to his parent department.

(iii) Shri Munish Sikarwar, Add. Commissioner.

109. The State Govt. has produced the record of Shri Munish Sikarwar pertaining to his deputation to the post of Add. Commissioner, which contains the proposal for transfer of various persons including Shri Munish Sikarwar. Thus, it is clear that Shri Munish Sikarwar was transferred along with other officers by order dated 23-2-2024. Therefore, there were no considerations and deliberations before sending Shri Munish Sikarwar on deputation/transfer on deputation to the post of Add. Commissioner. It is also not known as to

whether the consent of the lending department as well as borrowing department was obtained or not?

110. Shri Munish Sikarwar has filed his response and has stated that by order dated 28-2-2022, he was promoted to the post of Add. Collector. Thereafter, he was transferred to Gwalior to the post of Add. Collector, Gwalior and by order dated 23-2-2024, he was transferred to the post of Add. Commissioner, Municipal Corporation, Gwalior.

111. It is clear that Shri Munish Sikarwar, was transferred and not sent on deputation to the post of Add. Commissioner, as he was transferred by order dated 23-2-2024, by which several officers were transferred within their own cadre. How Shri Munish Sikarwar, could have been sent on transfer to the post of Add. Commissioner, Gwalior has not been clarified by any body. Whether the case of Shri Munish Sikarwar for sending him on deputation was ever considered by the State Govt. or not is also not clear. Whether any consent was obtained from his parent department as well as borrowing department or not is also not clear. The State Govt. has filed its return vide Document No. 4644/2025 and except pleading that State Govt. has authority to issue the deputation order under Section 58(3)(5) of Municipal Corporation Act, nothing has been stated in respect of exercise done by it for sending the officers/employees on deputation. Thus, it is clear that no order dated 58(3)(5) of Municipal Corporation Act was ever passed. Therefore, the order of transfer of Shri Munish Sikarwar, Add. Commissioner was done in colourable exercise of power and most probably under an impression that by issuing a transfer order, he can be posted outside his cadre in the different department. Therefore, the transfer order of Shri Munish Sikarwar cannot be treated as an order of deputation. Even, if it is treated as transfer on deputation, but even for that purposes, there is nothing on record to suggest that any public interest was considered. Thus, in the light of judgment passed by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**, the

deputation order is the product of colourable exercise of power. Thus, the transfer order dated 23-2-2024 passed in respect of Shri Munish Sikarwar is hereby **Quashed**. He be immediately relieved from the post of Add. Commissioner, Gwalior and he should immediately submit his joining in the parent department.

Shri Anil Kumar Dubey, Add. Commissioner

112. The State has not produced the record pertaining to sending Shri Anil Kumar Dubey on deputation to Municipal Corporation, Gwalior. Therefore, what were the considerations and deliberations behind sending Anil Kumar Dubey on deputation to the post of Add. Commissioner are not known. It is also not known as to whether the consent of the lending department as well as borrowing department was taken or not?

113. Shri Anil Kumar Dubey has filed his response vide document No. 4573 of 2025. It is mentioned that he was appointed as C.M.O. and by order dated 13-7-2023 he was transferred to the Municipal Corporation, Gwalior on the post of Dy. Commissioner and by order dated 18-12-2024 he has been directed to work on the post of Add. Commissioner. Even according to Shri Anil Kumar Dubey, he was not sent on deputation but he was transferred to Municipal Corporation, Gwalior. The Counsel for Shri Anil Kumar Dubey did not justify that how Shri Anil Kumar Dubey, can be transferred to Municipal Corporation, Gwalior. Thus, it is clear that Shri Anil Kumar Dubey was not sent on deputation in exercise of power under Section 58(3) or (5) of Municipal Corporation Act. Once an officer is appointed in a particular department, then he/she should serve the said department only and only in exceptional circumstance and that too if it is in the public interest, the employee should be send to another department on deputation, but it appears that the State Govt. and the employees are treating deputation as a convenient method to get the posting in another department of his/her choice. That cannot be the very purpose of concept of deputation.

114. What were the deliberations and discussions before transferring Shri Anil Kumar Dubey to Municipal Corporation Gwalior are not known, but one thing is clear that he was transferred under an impression that he can be transferred to Municipal Corporation, without realizing that it is a completely different department and cadre. Thus, it is clear that no consent must have been obtained from the parent department of Shri Anil Kumar Dubey and similarly no consent from borrowing department i.e., Municipal Corporation, Gwalior must have been obtained. Therefore, the transfer order dated 31-7-2023 of Shri Anil Kumar Dubey is bad, and cannot be treated as a transfer on deputation. Nagar Nigam further the order dated 18-12-2024 passed by the State Govt. thereby posting Shri Anil Kumar Dubey on the post of Add. Commissioner is also bad. Accordingly, both the orders are hereby **Quashed**. Shri Anil Kumar Dubey be relieved immediately and Shri Dubey should immediately go back to his parent department by submitting his joining in his parent department.

Deputy Commissioner

115. As per the set up, 7 posts of Dy. Commissioner are sanctioned and as per Rule 2000, 50% are to be filled up by promotion and deputation. At present only one person namely Dr. Dinesh Dixit, is working on the post of Dy. Commissioner. Therefore, it is clear that the post in question can be filled up State Govt. by sending atleast 3 persons on deputation.

Dr. Dinesh Dixit, Dy. Commissioner

116. Undisputedly, Dr. Dinesh Dixit is a Veterinary Doctor. Now the only question for consideration is that whether Dr. Dinesh Dixit is holding minimum qualifications to hold the administrative post like Dy. Commissioner in Municipal Corporation, Gwalior or not?

117. As already pointed out, this Court had issued notices to Dr. Dinesh Dixit, and he was duly served by Commissioner, Municipal Corporation, Gwalior, but Dr. Dinesh Dixit did not think it proper to either engage any lawyer or to appear

personally. He also did not file any response to the Show Cause Notice issued by this Court.

118. I.A. No. 4951/2025 was filed by Petitioner for impleading the noticees as respondents but Shri D.P. Singh, who is the Counsel for the Petitioner, did not implead Dr. Dinesh Dixit as respondent. This was done deliberately. It is not out of place to mention here that earlier also, Dr. Dinesh Dixit was repatriated and the order of repatriation has been challenged by Dr. Dinesh Dixit by filing W.P. No. 7250 of 2024. It is not out of place to mention here that Shri D.P. Singh, Advocate is the Counsel for Dr. Dinesh Dixit in W.P. No. 7250 of 2024. Although, Shri D.P. Singh had provided the copy of fresh repatriation order dated 28-4-2025, but did not disclose to the Court, that earlier also, Dr. Dinesh Dixit was repatriated and his writ petition i.e., W.P. No. 7250 of 2024 is pending and he himself is the Counsel for Dr. Dinesh Dixit. Even there is nothing on record to suggest that Dr. Dinesh Dixit has been relieved from Municipal Corporation, Gwalior in compliance of order dated 28-4-2025. Therefore, it has become necessary for this Court to consider as to whether the deputation of Dr. Dinesh Dixit to the Municipal Corporation, Gwalior on the post of Dy. Commissioner is in accordance with law or not?

119. Admittedly, Dr. Dinesh Dixit is a Veterinary Doctor, therefore, the State Counsel was directed to point out that how Dr. Dinesh Dixit was eligible to be sent on deputation to the post of Dy. Commissioner.

120. The State Govt in its return filed vide document no. 4644 of 2025 has stated that by order dated 10-8-2023, Dr. Dinesh Dixit was sent on deputation on the post of Dy. Commissioner, Municipal Corporation, Gwalior. By order dated 18-3-2024 he was repatriated against which he filed W.P. No. 7250/2024 and by order dated 2-4-2024, interim order was passed. Various Veterinary Doctors were working on deputation in various other departments and they have been repatriated back to their parents departments by order dated 28-4-2025 and Dr.

Dinesh Dixit has also been repatriated by order dated 28-4-2025 and his services have also been accepted by his parent department on 28-4-2025 itself.

121. This return filed by the State Govt. is misleading and the State Govt. has suppressed material facts. Although Dr. Dinesh Dixit was (exparte) relieved from Municipal Corporation, Gwalior but it is not known as to whether he has submitted his joining in his parent department or not?

122. But one thing is clear that some of the Veterinary Doctors are not interested in working in their parent department. This presumption has been drawn by this Court on account of various repatriation orders of other Veterinary Doctors, which have been filed by State as Annexure R/6. Why the State Govt. at the cost of health of Animals is interested in obliging the Veterinary Doctors by sending them on deputation on administrative posts is not clear. It is for the State Govt. to introspect as to whether it is really serious towards the health of the animals of State of Madhya Pradesh or not?

123. Be that whatever it may be.

124. It is submitted by Shri S.S. Kushwaha, that the file pertaining to the repatriation of Dr. Dinesh Dixit, Veterinary Doctor is available and accordingly, it was provided to the Court.

125. From the file, it is clear that a note sheet was written by Minister, Urban Administration and Development that an order of posting of Dr. Dinesh Dixit on the post of Dy. Commissioner, Municipal Corporation, Gwalior be issued. An objection was raised that the cadre of Dr. Dixit is different and minimum qualification and duties of both the posts are different, therefore, proposal from Commissioner, Urban Administration and Development be obtained. Thereafter, it appears that there was no further development in this regard. Therefore, Minister for State, *Udhyaniki Avam Khadya Prasanskaran Department (independent charge) avam Narmada Valley Ghat Vikas Nigam* wrote a notesheet to issue the orders of deputation. Thereafter, Minister, Urban Administration and Development, again wrote a note sheet to immediately place

the proposal On 14-10-2022, Deputy Secretary, G.A.D., wrote a letter to Commissioner, Urban Administration and Development to submit his opinion for further action. On 22-2-2023, Dy. Secretary, GAD wrote a letter to Principal Secretary, Animal Husbandry to forward the ACRs of 5 years as well as consent and details regarding any departmental/lokyukt/enquiry etc. Thereafter on 6-2-2023, Shri Bharat Yadav, Commissioner, Urban Administration and Development wrote a note sheet that instructions have been issued by Minister therefore, Dr. Dixit be sent on deputation and accordingly, his ACRs and consent were sought for further action. Thereafter proposal from Veterinary Department was sought. The Veterinary Department informed that the pay scale of Dr. Dixit is 56100-177500. The Municipal Corporation, Gwalior in its NOC had mentioned that the pay scale of the post of Dy. Commissioner is 67300-20690/-. Further the post can be filled up by sending an officer of the rank of Dy. Director, Finance and Accounts. Without considering the aforesaid aspects, proposal was sent for sending Dr. Dixit on deputation and accordingly on 1-8-2023, the order of deputation was issued. Thereafter, the note sheet dated 27-7-2023, written by some clerical staff mentions that a complaint has been received from Shri Brijbhan Singh Rajput that Dr. Dixit is a Veterinary Doctor. His deputation is only for the purposes of corruption, therefore, his deputation may be cancelled. However, the said complaint was closed on 2-8-2023 without considering the eligibility of Dr. Dinesh Dixit and any enquiry.

126. From the note sheet dated 4-3-2024, it is clear that Dr. Dinesh Dixit was also given the additional charge of Gwalior Development Authority and he was negligent in discharge of his duties and accordingly, he was also placed under suspension by order dated 12-2-2024 passed by Commissioner, Gwalior Division, Gwalior. Since, Dr. Dinesh Dixit is negligent in discharge of his duties, therefore, Veterinary Department was requested to take back the services of Dr. Dinesh Dixit. Accordingly, the order of repatriation was passed on 12-3-

2024. As already pointed out that co-ordinate bench of this Court by order dated 2-4-2024 had stayed the operation of order dated 12-3-2024

127. Further the file of Dr. Dinesh Dixit also contains a complaint sent by one Narendra Yogi which was addressed to the Chief Minister against the deputation of Dr. Dinesh Dixit.

128. It was submitted by Shri D.P. Singh, that the order of suspension of Dr. Dinesh Dixit was also challenged by him by filing writ petition and the order of suspension was quashed on the ground of competency of Commissioner, Gwalior Division Gwalior.

129. Be that whatever it may be.

130. The State Govt. has deliberately suppressed all the above mentioned facts in its return filed vide document number 4644/2025.

131. From the file of Dr. Dinesh Dixit, it is clear that he was in the pay scale of 56100-177500 whereas he was sent on deputation to the post of Dy. Commissioner whose pay scale is 67300-20690/-. This fact was in the notice of the State Govt. therefore, in the deputation order, it was mentioned that Dr. Dinesh Dixit would be entitled for the pay scale which he was getting in the parent department.

132. The Counsel for the State could not point out as to how, Dr. Dinesh Dixit was eligible to be send on deputation to the post of Dy. Commissioner which is a higher post. Further more, it appears that apart from the post of Dy. Commissioner, Dr. Dinesh Dixit was also given the charge of some post in Gwalior Development Authority.

133. Thus, it is clear that Dr Dinesh Dixit was send on deputation on account of recommendations made by Minister of General Administration and Development and Minister for State *Udhyaniki Avam Khadya Prasanskaran Department (independent charge) avam Narmada Valley Ghat Vikas Nigam*. This is a glaring example of colourable exercise of power. Neither Dr. Dinesh Dixit was having minimum qualification to hold the post of Dy. Commissioner,

Municipal Corporation, nor he was holding any post which can be said to be equivalent to the post of Dy. Commissioner.

134. Now, the question for consideration is that in view of stay order dated 2-4-2024 passed by co-ordinate bench of this Court in W.P. No. 7250/2024, whether this Court can consider the question of deputation of Dr. Dixit or not?

135. In writ petition no. 7250/2024, the question is with regard to repatriation of Dr. Dinesh Dixit, but in the present case, the very correctness of his order of deputation is in question. If order of deputation is quashed, W.P. No. 7250 of 2024 would become infructuous but if W.P. No. 7250 of 2024 is allowed, then only the order of repatriation would be quashed, but the validity of the order of deputation cannot be decided in W.P. No. 7250 of 2024. Therefore, it is held that pendency of W. P. no. 7250 of 2024 and interim order dated 2-4-2024 will not come in the way of this Court to consider the validity of the order of deputation of Dr. Dinesh Dixit.

136. As already pointed out, neither Dr. Dinesh Dixit was holding minimum qualification nor any equivalent post to the post of Dy. Commissioner. In fact Dr. Dinesh Dixit was working on a lower post in comparison to the post of Dy. Commissioner, Municipal Corporation. No public interest was considered. Why Dr. Dinesh Dixit should be send on deputation was also not considered, but from the file it is clear that since, two Ministers were pressurizing the officers, therefore, Dr. Dinesh Dixit was sent on deputation. The helplessness of the officers because of instructions of the higher authorities was also expressed by Shri Vivek Khedkar, Additional Advocate General on 16-4-2025, which is duly mentioned in the order dated 16-4-2025 also.

137. Thus, the order of deputation of Dr. Dinesh Dixit is a product of colourable exercise of power, therefore, the same is hereby **Quashed**. Although it appears that Shri Dinesh Dixit was relieved exparte on 28-4-2025, but it is not known as to whether Shri Dinesh Dixit has actually joined in his parent department or still has managed to work in Municipal Corporation Gwalior.

Therefore, it is directed that if Dr. Dinesh Dixit has not joined in his parent department, then he shall immediately do so, and it is also directed that in future also, by keeping the welfare of animals of State of Madhya Pradesh, in mind Dr. Dinesh Dixit shall not be sent on deputation to any other department and if he is still working in Municipal Corporation, Gwalior, then he shall stop working with immediate effect.

Asstt. Commissioners

138. On this post, two officers namely Shri Sunil Kumar Chauhan and Shri Amar Satya Gupta are working on deputation. As per Rules, 2000, no post of Asstt. Commissioner can be filled up by deputation. Therefore, it is clear that deputation of both the persons is bad in the light of Rules 2000.

Shri Sunil Kumar Chauhan, Asstt. Commissioner

139. By order dated 10-10-2019, Shri Sunil Kumar Chauhan was sent on deputation to the post of Asstt. Commissioner, Municipal Corporation, Gwalior. The file of Shri Sunil Kumar Chauhan was made available by the State Govt. He was sent on deputation on the recommendation of Minister, Urban Administration and Development only and no public interest was considered. Thus, it is clear that Shri Sunil Kumar Chauhan was accommodated merely on the recommendation of the Minister. Thus, in the light of judgment passed by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**, the deputation order of Shri Sunil Kumar Chauhan is the product of colourable exercise of power. Accordingly, the deputation of Shri Sunil Kumar Chauhan is hereby **Quashed**. Shri Sunil Kumar Chauhan shall stop working as Asstt. Commissioner with immediate effect and he shall submit his joining in his parent department.

Shri Amar Satya Gupta, Asstt. Commissioner

140. The file of Shri Amar Satya Gupta, Asstt. Commissioner, has not been provided. By order dated 2-9-2021, Shri Amar Satya Gupta, Asstt. Commissioner was transferred to Municipal Corporation, Gwalior, whereas his

parent department is Urban Administration and Development. He could not have been sent to Municipal Corporation, Gwalior, merely by issuing transfer order. The transfer order of Shri Amar Satya Gupta, Asstt. Commissioner, has been filed by the State in its return vide document no. 4644/2025. Thus, the transfer order of Shri Amar Satya Gupta is bad on two grounds i.e., he has been sent on deputation to a post which cannot be filled up by deputation as per Rules, 2000 and secondly, no deputation order was passed and he was merely transferred. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Furthermore the order of transfer is also not in conformity with the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. Accordingly, the transfer order of Shri Amar Satya Gupta, is hereby **Quashed** and it is directed that he shall stop functioning as Asstt. Commissioner, with immediate effect and he shall submit his joining in his parent department.

Accountant

141. As per Rules, 2000, the post of Accountant, cannot be filled up by deputation.

Shri Santosh Sharma, Accountant

142. The file of Shri Santosh Sharma has been provided according to which he was sent on deputation on the recommendation of the then Chief Minister. The file doesnot disclose that the law laid down by Full Bench in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**, was ever taken note of. No public interest has been considered. Shri Sharma has been sent on deputation on the recommendation of the then Chief Minister only. Further by order dated 5-9-2023, he was posted in Municipal Corporation, Gwalior on the post of Accountant. It is not mentioned in the order dated 5-9-2023, as to whether he is being transferred on deputation or he is being sent on deputation. Even the period of deputation is also not mentioned.

143. Accordingly, it is held that the posting order of Santosh Sharma, Accountant is bad on two grounds i.e., (i) he has been posted on a post which cannot be filled up by deputation as per Rules 2000 and (ii) the posting order is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Accordingly, the posting order of Shri Santosh Sharma is hereby **Quashed** and he shall stop functioning as Accountant with immediate effect and he shall immediately report back to his parent department.

Asstt. Sanitary Officer

144. As per Rules, 2000, the post of Asstt. Sanitary Officer cannot be filled up by deputation.

Shri Vaibhav Shrivastava, Asstt. Sanitary Officer

145. The file pertaining to transfer of Shri Vaibhav Shrivastava has not been provided by the State Govt.

146. The parent department of Shri Vaibhav Shrivastava is Municipal Corporation and by order dated 20-9-2019 he was transferred to Municipal Corporation, Gwalior. Thus, it is clear that the State Govt. did not consider the fact that Shri Vaibhav Shrivastava, cannot be sent to Municipal Corporation, Gwalior except on deputation/transfer on deputation. It is clear that no consent of the parent department as well as borrowing department was obtained. Further Shri Vaibhav Shrivastava was sent on a post which could not have been filled by deputation/ transfer on deputation. The transfer order of Shri Vaibhav Shrivastave is in the nature of transfer on deputation which is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Vaibhav Shrivastava is hereby **Quashed** and Shri Vaibhav Shrivastava

shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

Asstt. Law Officer

147. As per Rules, 2000, the post of Asstt. Law Officer cannot be filled up by deputation.

Shri Bhanu Pratap Singh Tomar

148. The file pertaining to deputation of Shri Bhanu Pratap Singh Tomar has not been provided.

149. The parent department of Shri Tomar is Municipal Corporation, Ratlam. By order dated 5-10-2019, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Law Officer. Thus, it is clear that the State Govt. did not consider the fact that Shri Bhanu Pratap Singh Tomar, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is clear that no consent of the parent department as well as borrowing department was obtained. Further Shri Bhanu Pratap Singh Tomar was sent to a post which could not have been filled by deputation. The transfer order of Shri Bhanu Pratap Singh Tomar is in the nature of deputation which is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Bhanu Pratap Singh Tomar is hereby **Quashed** and Shri Bhanu Pratap Singh Tomar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

Asstt. Engineer

150. As per Rules, 2000, this post cannot be filled up by deputation.

Smt. Shalini Singh, Asstt. Engineer

151. The file pertaining to deputation of Smt. Shalini Singh has been provided.

152. As per respondent no. 5, the parent department of Smt. Shalini Singh is Urban Administration and Development. By order dated 22-2-2018, she was

transferred to Municipal Corporation Gwalior on the post of Asstt. Engineer. Thus, it is clear that the State Govt. did not consider the fact that Smt. Shalini Singh, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is clear that no consent of the parent department as well as borrowing department was obtained. Further Smt. Shalini Singh was sent on a post which could not have been filled by deputation. The transfer order of Smt. Shalini Singh is in the nature of deputation which is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Shalini Singh is hereby **Quashed** and Smt. Shalini Singh shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

Asstt. Accountant

153. As per Rules, 2000, this post cannot be filled up by deputation.

Smt. Pooja Mehkali, Asstt. Accountant

154. The file pertaining to deputation of Smt. Pooja Mehkali has been provided.

155. As per respondent no. 5, the parent department of Smt. Pooja Mehkali is Urban Administration and Development. By order dated 24-11-2022, she was transferred to Municipal Corporation Gwalior on the post of Asstt. Accountant. Thus, it is clear that the State Govt. did not consider the fact that Smt. Pooja Mehkali, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is clear that no consent of the parent department as well as borrowing department was obtained. Further Smt. Pooja Mehkali was sent on a post which could not have been filled by deputation. The transfer order of Smt. Pooja Mehkali is in the nature of deputation which is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer

order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Pooja Mehkali is hereby **Quashed** and Smt. Pooja Mehkali shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(ii) Smt. Sapna Chauhan

156. The file pertaining to deputation of Smt. Sapna Chauhan has been provided.

157. As per respondent no. 5, the parent department of Smt. Sapna Chauhan is Municipal Corporation, Rewa. By order dated 3-5-2023, she was transferred to Municipal Corporation Gwalior on the post of Asstt. Accountant. Thus, it is clear that the State Govt. did not consider the fact that Smt. Sapna Chauhan, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is clear that no consent of the parent department as well as borrowing department was obtained. Further Smt. Sapna Chauhan was sent on a post which could not have been filled by deputation. The transfer order of Smt. Sapna Chauhan is in the nature of deputation which is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Sapna Chauhan is hereby **Quashed** and Smt. Sapna Chauhan shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

Sub-Engineer

158. As per Rules, 2000, this post cannot be filled up by deputation.

(i) Shri Ashish Rajput

159. The file pertaining to deputation of Shri Ashish Rajput has been provided. But this file pertains to cancellation of his transfer order dated 19-8-2020 to Rajnagar.

160. As per respondent no. 5, the parent department of Shri Ashish Rajput is Municipal Council Bhind. By order dated 14-07-2017, he was transferred to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Shri Ashish Rajput, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is clear that no consent of the parent department as well as borrowing department was obtained. Further Shri Ashish Rajput was sent on a post which could not have been filled by deputation. The transfer order of Shri Ashish Rajput is in the nature of deputation which is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Ashish Rajput is hereby **Quashed** and Shri Ashish Rajput shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(ii) Shri Ashok Kumar Gupta

161. The file pertaining to deputation of Shri Ashok Kumar Gupta has not been provide.

162. Shri Ashok Kumar Gupta has filed his response. As per respondent no. 5, the parent department of Shri Ashok Kumar Gupta is Panchayat and Rural Development Department. Earlier by order dated 30-10-2006, he was sent on deputation to other department and by order dated 28-1-2017, he was repatriated to his parent department. Thereafter again by order dated 31-8-2017 he was sent on deputation to Municipal Corporation, Gwalior. Thus, it is clear that Shri Ashok Kumar Gupta is not interested in working in his parent department and is on deputation to other departments from the year 2006. Since, the file has not been provided therefore, it is not clear that whether consent of parent department and borrowing department was ever taken or not. Further, Shri Ashok Kumar Gupta has been sent on deputation to a post which cannot be filled up by

deputation. There is nothing on record to suggest that Shri Ashok Kumar Gupta was sent in public interest. Thus, the deputation of Shri Ashok Kumar Gupta is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Thus the deputation of Shri Ashok Kumar Gupta is bad in law and hence it is **Quashed**. Shri Ashok Kumar Gupta shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iii) Shri Vishal Garg

163. The file pertaining to deputation of Shri Vishal Garg has not been provide.

164. As per respondent no. 5, the parent department of Shri Vishal Garg is Municipal Council, Bhind. By order dated 06-03-2017, he was sent on deputation to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Shri Vishal Garg, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Vishal Garg was sent on a post which could not have been filled by deputation. The order of deputation of Shri Vishal Garg is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Vishal Garg is hereby **Quashed** and Shri Vishal Garg shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iv) Smt. Greeshma Arya

165. The file pertaining to deputation of Smt. Greeshma Arya has not been provide.

166. According to respondent no. 5, the parent department of Smt. Greeshma Arya is Municipal Council, Shivpuri. By order dated 31-07-2018, she was transferred to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Smt. Greeshma Arya cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Greeshma Arya was sent on a post which could not have been filled by deputation. The order of deputation of Smt. Greeshma Arya is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Greeshma Arya is hereby **Quashed** and Smt. Greeshma Arya shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(v) Smt. Tanuja Verma

167. The file pertaining to deputation of Smt. Tanuja Verma has been provided.

168. According to the respondent no.5, the parent department of Smt. Tanuja Verma is Municipal Council, Shivpuri. By order dated 22-09-2018, she was transferred to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Smt. Tanuja Verma cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Tanuja Verma was sent on a post which could not have been filled by deputation. The order of deputation of Smt. Tanuja Verma is contrary to the law laid down by Full Bench

of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Tanuja Vermais hereby **Quashed** and Smt. Tanuja Vermashall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(vi) Shri Ravi Godiya

169. The file pertaining to deputation of Shri Ravi Godiya has not been provide.

170. As per respondent no. 5, the parent department of Shri Ravi Godiya is Municipal Corporation, Rewa. By order dated 04-07-2019, he was Transferred to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Shri Ravi Godiya, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Ravi Godiya was sent on a post which could not have been filled by deputation. The order of transfer of Shri Ravi Godiya is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Ravi Godiya is hereby **Quashed** and Shri Ravi Godiya shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(vii) Ms. Suruchi Bansal

171. The file pertaining to deputation of Ms. Suruchi Bansal has not been provided.

172. As per respondent no. 5, the parent department of Ms. Suruchi Bansal is Municipal Corporation, Rewa. By order dated 31-10-2019, She was

Transferred to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Ms. Suruchi Bansal, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Ms. Suruchi Bansal was sent on a post which could not have been filled by deputation. The order of transfer of Ms. Suruchi Bansal which in fact is in the nature of deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Ms. Suruchi Bansal is hereby **Quashed** and Ms. Suruchi Bansal shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(viii) Shri Anil Chauhan

173. The file pertaining to deputation of Shri Anil Chauhan has not been provided.

174. As per respondent no. 5, the parent department of Shri Anil Chauhan is Municipal Corporation, Morena. By order dated 19-2-2020, he was transferred to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Shri Anil Chauhan, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Anil Chauhan was sent on a post which could not have been filled by deputation. The order of transfer of Shri Anil Chauhan which in fact is in the nature of deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Anil Chauhan is hereby **Quashed** and Shri Anil Chauhan shall

immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(ix) Shri Ajeet Jain

175. The file pertaining to deputation of Shri Ajeet Jain has been provided.

176. As per respondent no. 5, the parent department of Shri Ajeet Jain is Municipal Corporation, Morena. By order dated 19-12-2020, he was transferred to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Shri Ajeet Jain, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Ajeet Jain was sent on a post which could not have been filled by deputation. The order of transfer of Shri Ajeet Jain which in fact is in the nature of deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Ajeet Jain is hereby **Quashed** and Shri Ajeet Jain shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(x) Smt. Varsha Mishra

177. The file pertaining to deputation of Smt. Varsha Mishra has been provided.

178. As per respondent no. 5, the parent department of Smt. Varsha Mishra is Municipal Corporation, Datia. By order dated 19-9-2020, She was transferred to Municipal Corporation Gwalior on the post of Sub-Engineer. Thus, it is clear that the State Govt. did not consider the fact that Smt. Varsha Mishra, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Varsha Mishra was sent on a post

which could not have been filled by deputation. The order of transfer of Smt. Varsha Mishra which in fact is in the nature of deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Varsha Mishra is hereby **Quashed** and Shri Ajeet Jain shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

Asstt. Revenue Inspector

179. As per Rules, 2000, the post of Asstt. Revenue Inspector cannot be filled up by deputation.

(i) Shri Rajesh Khare

180. The file pertaining to deputation of Shri Rajesh Khare has not been provided.

181. As per respondent no. 5, the parent department of Shri Rajesh Khare is Municipal Council, Dabra. By order dated 13-5-2015, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Rajesh Khare, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Rajesh Khare was sent on a post which could not have been filled by deputation. The order of transfer of Shri Rajesh Khare which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Rajesh Khare is hereby **Quashed** and Shri Rajesh Khare

shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(ii) Pramod Pal

182. The file pertaining to deputation of Shri Pramod Pal has not been provided.

183. As per respondent no. 5, the parent department of Shri Pramod Pal is Municipal Corporation Guna. By order dated 14-7-2017, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Pramod Pal cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Pramod Pal was sent on a post which could not have been filled by deputation. The order of transfer of Shri Shri Pramod Pal which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Pramod Pal is hereby **Quashed** and Shri Pramod Pal shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iii) Dharmendra Dhakad

184. The file pertaining to deputation of Shri Dharmendra Dhakad has been provided.

185. As per respondent no. 5, the parent department of Shri Dharmendra Dhakad is Municipal Corporation Bhopal. By order dated 28-5-2018, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Dharmendra Dhakad cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department

as well as borrowing department was obtained or not. Further Shri Dharmendra Dhakad was sent on a post which could not have been filled by deputation. The order of transfer of Shri Shri Dharmendra Dhakad which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Dharmendra Dhakad is hereby **Quashed** and Shri Dharmendra Dhakad shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iv) Jagan Agrawal

186. The file pertaining to deputation of Shri Jagan Agrawal has not been provided.

187. As per respondent no. 5, the parent department of Shri Jagan Agrawal is Municipal Corporation Indore. By order dated 12-9-2018, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Jagan Agrawal cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Jagan Agrawal was sent on a post which could not have been filled by deputation. The order of transfer of Shri Jagan Agrawal which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Jagan Agrawal is hereby **Quashed** and Shri Jagan Agrawal shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(v) Ms. Snehlata Parmar

188. The file pertaining to deputation of Ms. Snehlata Parmar has not been provided.

189. As per respondent no. 5, the parent department of Ms. Snehlata Parmar is Municipal Corporation, Ujjain. By order dated 14-7-2017, She was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Ms. Snehlata Parmar, cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Ms. Snehlata Parmar was sent on a post which could not have been filled by deputation. The order of transfer of Ms. Snehlata Parmar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Ms. Snehlata Parmar is hereby **Quashed** and Ms. Snehlata Parmar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(vi) Dinesh Jatav

190. The file pertaining to deputation of Shri Dinesh Jatav has been provided.

191. As per respondent no. 5, the parent department of Shri Dinesh Jatav is Municipal Council, Jaura, Distt. Morena. By order dated 5-10-2018, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Dinesh Jatav cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Dinesh Jatav was sent on a post which could not have been filled by deputation. The order of

transfer of Shri Dinesh Jatav which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of ShriDinesh Jatav is hereby **Quashed** and Shri Dinesh Jatav shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(vii) Satendra Singh

192. The file pertaining to deputation of Shri Satendra Singh has not been provided.

193. As per respondent no. 5, the parent department of Shri Satendra Singh is Municipal Council, Badagaon, Distt. Agar Malwa. By order dated 21-10-2020, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Satendra Singh cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Satendra Singh was sent on a post which could not have been filled by deputation. The order of transfer of Shri Satendra Singh which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of ShriSatendra Singh is hereby **Quashed** and Shri Satendra Singh shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(viii) Rahul Dhoreliya

194. The file pertaining to deputation of Shri Rahul Dhoreliya has not been provided.

195. As per respondent no. 5, the parent department of Shri Rahul Dhoreliya is Municipal Council, Karnavadi, Distt. Dewa. By order dated 17-3-2020, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Rahul Dhoreliya cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Rahul Dhoreliya was sent on a post which could not have been filled by deputation. The order of transfer of Shri Rahul Dhoreliya which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of ShriRahulDhoreliya is hereby **Quashed** and Shri Rahul Dhoreliya shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(ix) Abhishek Singh Bhadouria

196. The file pertaining to deputation of Shri Abhishek Singh Bhadouria has not been provided.

197. As per respondent no. 5, the parent department of Shri Abhishek Singh Bhadouria is Municipal Corporation, Indore. By order dated 3-3-2019, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that ShriAbhishek Singh Bhadouria cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Abhishek Singh Bhadouria was sent on a post which could not have been

filled by deputation. The order of transfer of Shri Abhishek Singh Bhadouria which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Abhishek Singh Bhadouria is hereby **Quashed** and Shri Abhishek Singh Bhadouria shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(x) Smt. Renu Tomar

198. The file pertaining to deputation of Smt. Renu Tomar has been provided.

199. As per respondent no. 5, the parent department of Smt. Renu Tomar is Municipal Council, Mehgaon, Distt. Indore. By order dated 3-10-2020, She was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Smt. Renu Tomar cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Renu Tomar was sent on a post which could not have been filled by deputation. The order of transfer of Smt. Renu Tomar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Renu Tomar is hereby **Quashed** and Smt. Renu Tomar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(xi) Raj Kumar Koshta

200. The file pertaining to deputation of Shri Raj Kumar Koshta has not been provided.

201. As per respondent no. 5, the parent department of Shri Raj Kumar Koshta is Municipal Corporation, Bhopal. By order dated 5-7-2019, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that ShriRaj Kumar Koshta cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Raj Kumar Koshta was sent on a post which could not have been filled by deputation. The order of transfer of Shri Raj Kumar Koshta which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of ShriRaj Kumar Koshta is hereby **Quashed** and Shri Raj Kumar Koshta shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(xii) Smt. Rupali Arya

202. The file pertaining to deputation of Smt. Rupali Arya has been provided.

203. As per respondent no. 5, the parent department of Smt. Rupali Arya is Municipal Corporation, Bhopal. By order dated 18-9-2023, She was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Smt. Rupali Arya cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Rupali Arya was sent on a post which could not have been filled by deputation. The order of transfer of Rupali Arya which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her

transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Rupali Arya is hereby **Quashed** and Smt. Rupali Arya shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(xiii) Prashant Rao

204. The file pertaining to deputation of Shri Prashant Rao has been provided.

205. As per respondent no. 5, the parent department of Shri Prashant Rao is Municipal Council, Bhandar Distt. Datia. Thereafter, his parent department was changed to Municipal Corporation, Indore. By order dated 5-7-2023, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Revenue Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Prashant Rao cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Prashant Rao was sent on a post which could not have been filled by deputation. The order of transfer of Shri Prashant Rao which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Prashant Rao is hereby **Quashed** and Shri Prashant Rao shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(xiv) Sandeep Mishra

206. The file pertaining to deputation of Shri Sandeep Mishra has been provided.

207. As per respondent no. 5, the parent department of Shri Sandeep Mishra is Municipal Corporation, Jabalpur. By order dated 25-9-2023, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Sanitary Inspector.

Thus, it is clear that the State Govt. did not consider the fact that Shri Sandeep Mishra cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Sandeep Mishra was sent on a post which could not have been filled by deputation. The order of transfer of Shri Sandeep Mishra which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. **Further more, during the course of argument, it was submitted by Counsel for Shri Sandeep Mishra, that he is ready to go back to his parent department.** In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Sandeep Mishra is hereby **Quashed** and Shri Sandeep Mishra shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

Sanitary Inspector

208. As per Rules, 2000, the post of Sanitary Inspector cannot be filled up by deputation.

(i) Rajendra Singh Vikram

209. The file pertaining to deputation of Shri Rajendra Singh Vikram has not been provided.

210. As per respondent no. 5, the parent department of Shri Rajendra Singh Vikram is Municipal Corporation Indore. By order dated 4-9--2019, he was transferred to Municipal Corporation Gwalior on the post of Sanitary Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Rajendra Singh Vikram cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Rajendra Singh

Vikram was sent on a post which could not have been filled by deputation. The order of transfer of Shri Rajendra Singh Vikram which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. **Further more, during the coure of arguments, it was specifically stated by Counsel for Shri Rajendra Singh Vikram, that he is ready to go back to his parent department.** Therefore, the transfer order of Shri Rajendra Singh Vikram is hereby **Quashed** and Shri Rajendra Singh Vikram shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(ii) Dharmendra Singh Parmar

211. The file pertaining to deputation of Shri Dharmendra Singh Parmar has not been provided.

212. As per respondent no. 5, the parent department of Shri Dharmendra Singh Parmar is Municipal Corporation Indore. By order dated 5-11-2019, he was transferred to Municipal Corporation Gwalior on the post of Sanitary Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Dharmendra Singh Parmar cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Dharmendra Singh Parmar was sent on a post which could not have been filled by deputation. The order of transfer of Shri Dharmendra Singh Parmar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. **Further more, during the coure of arguments, it was specifically stated by Counsel for Shri Dharmendra Singh Parmar, that he is ready to go back to his parent department.**

Therefore, the transfer order of Shri Dharmendra Singh Parmaris hereby **Quashed** and Shri Dharmendra Singh Parmar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iii) Deependra Sengar

213. The file pertaining to deputation of Shri Deependra Sengar has not been provided.

214. As per respondent no. 5, the parent department of Shri Deependra Sengar is Municipal Council, Bhind. Later on, his parent department was modified as M.P. State Urban Swachata Sewa (Urban Administration and Development). By order dated 17-3--2020, he was transferred to Municipal Corporation Gwalior on the post of Sanitary Inspector. Thus, it is clear that the State Govt. did not consider the fact that Shri Deependra Sengar cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Deependra Sengar was sent on a post which could not have been filled by deputation. The order of transfer of Shri Deependra Sengar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Deependra Sengar is hereby **Quashed** and Shri Deependra Sengar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

Asstt. Accountant

215. As per Rules, 2000, the post of Asstt. Accountant cannot be filled up by Deputation.

(i) Smt. Ritu Agrawal

216. The file pertaining to deputation of Smt. Ritu Agrawal has not been provided.

217. As per respondent no. 5, the parent department of Smt. Ritu Agrawal is Municipal Corporation, Jabalpur. By order dated 2-6-2018, She was transferred to Municipal Corporation Gwalior on the post of Asstt. Accountant. Thus, it is clear that the State Govt. did not consider the fact that Smt. Ritu Agrawal cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Ritu Agrawal was sent on a post which could not have been filled by deputation. The order of transfer of Smt. Ritu Agrawal which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Ritu Agrawal is hereby **Quashed** and Smt. Ritu Agrawal shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

Stenographer Grade III

218. As per Rules, 2000, the post of Stenographer Grade III cannot be filled up by Deputation.

(i) Sachin Savita

219. The file pertaining to deputation of Shri Sachin Savita has been provided.

220. As per respondent no. 5, the parent department of Shri Sachin Savita is Municipal Corporation Indore. By order dated 28-5-2018, he was transferred to Municipal Corporation Gwalior on the post of Stenographer Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Sachin Savita cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing

department was obtained or not. Further Shri Sachin Savita was sent on a post which could not have been filled by deputation. The order of transfer of Shri Sachin Savita which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Sachin Savita is hereby **Quashed** and Shri Sachin Savita shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(ii) Ankit Sharma

221. The file pertaining to deputation of Shri Ankit Sharma has been provided.

222. As per respondent no. 5, the parent department of Shri Ankit Sharma is Municipal Corporation Indore. By order dated 16-7-2018, he was transferred to Municipal Corporation Gwalior on the post of Stenographer Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Ankit Sharma cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Ankit Sharma was sent on a post which could not have been filled by deputation. The order of transfer of Shri Ankit Sharma which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Ankit Sharma is hereby **Quashed** and Shri Ankit Sharma shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

Dy. Sanitary Supervisor

223. As per Rules, 2000, the post of Dy. Sanitary Supervisor cannot be filled up by deputation.

(i) Smt. Sheetal Dandotiya

224. The file pertaining to deputation of Smt. Sheetal Dandotiya has been provided.

225. As per respondent no. 5, the parent department of Smt. Sheetal Dandotiya is Municipal Corporation, Bhopal. By order dated 28-5-2018, She was transferred to Municipal Corporation Gwalior on the post of Dy. Sanitary Supervisor. Thus, it is clear that the State Govt. did not consider the fact that Smt. Sheetal Dandotiya cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Sheetal Dandotiya was sent on a post which could not have been filled by deputation. The order of transfer of Smt. Sheetal Dandotiya which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Sheetal Dandotiya is hereby **Quashed** and Smt. Sheetal Dandotiya shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(ii) Vivek Tyagi

226. The file pertaining to deputation of Vivek Tyagi has been provided.

227. As per respondent no. 5, the parent department of Vivek Tyagi is Municipal Corporation, Jabalpur. By order dated 5-10-2018, he was transferred to Municipal Corporation Gwalior on the post of Dy. Sanitary Supervisor. Thus, it is clear that the State Govt. did not consider the fact that Vivek Tyagi cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Vivek Tyagi was sent on a post which could not have been filled by deputation. The order of transfer of Vivek Tyagi

which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Vivek Tyagi is hereby **Quashed** and Vivek Tyagi shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(ii) Jitendra Singh Rajawat

228. The file pertaining to deputation of Shri Jitendra Singh has been provided.

229. As per respondent no. 5, the parent department of Shri Jitendra Singh is Municipal Corporation, Indore. By order dated 25-2--2019, he was transferred to Municipal Corporation Gwalior on the post of Dy. Sanitary Supervisor. Thus, it is clear that the State Govt. did not consider the fact that Shri Jitendra Singh cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Jitendra Singh was sent on a post which could not have been filled by deputation. The order of transfer of Shri Jitendra Singh which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Jitendra Singh is hereby **Quashed** and Shri Jitendra Singh shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iii) Mahesh Pratap Singh Sikarwar

230. The file pertaining to deputation of Shri Mahesh Pratap Singh Sikarwar has been provided.

231. As per respondent no. 5, the parent department of Shri Mahesh Pratap Singh Sikarwar is Municipal Corporation, Indore. By order dated 31-5--2021,

he was transferred to Municipal Corporation Gwalior on the post of Dy. Sanitary Supervisor. Thus, it is clear that the State Govt. did not consider the fact that Shri Mahesh Pratap Singh Sikarwar cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Mahesh Pratap Singh Sikarwar was sent on a post which could not have been filled by deputation. The order of transfer of Shri Mahesh Pratap Singh Sikarwar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Mahesh Pratap Singh Sikarwar is hereby **Quashed** and Shri Mahesh Pratap Singh Sikarwar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iv) Smt. Shalini Gupta

232. The file pertaining to deputation of Smt. Shalini Gupta has been provided.

233. As per respondent no. 5, the parent department of Smt. Shalini Gupta is Municipal Corporation, Bhopal. By order dated 31-3-2023, She was transferred to Municipal Corporation Gwalior on the post of Dy. Sanitary Supervisor. Thus, it is clear that the State Govt. did not consider the fact that Smt. Shalini Gupta cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Shalini Gupta was sent on a post which could not have been filled by deputation. The order of transfer of Smt. Shalini Gupta which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the

transfer order of Smt. Shalini Gupta is hereby **Quashed** and Smt. Shalini Gupta shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(v) Smt. Ruchi Yadav

234. The file pertaining to deputation of Smt. Ruchi Yadav has been provided.

235. As per respondent no. 5, the parent department of Smt. Ruchi Yadav is Municipal Corporation, Indore. By order dated 2-8-2023, She was transferred to Municipal Corporation Gwalior on the post of Dy. Sanitary Supervisor. Thus, it is clear that the State Govt. did not consider the fact that Smt. Ruchi Yadav cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Ruchi Yadav was sent on a post which could not have been filled by deputation. The order of transfer of Smt. Ruchi Yadav which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Ruchi Yadav is hereby **Quashed** and Smt. Ruchi Yadav shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(vi) Kuldeep Parashar

236. The file pertaining to deputation of Shri Kuldeep Parashar has been provided.

237. As per respondent no. 5, the parent department of Shri Kuldeep Parashar is Municipal Corporation, Indore. By order dated 31-3-2023, he was transferred to Municipal Corporation Gwalior on the post of Dy. Sanitary Supervisor. Thus, it is clear that the State Govt. did not consider the fact that Shri Kuldeep Parashar cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as

well as borrowing department was obtained or not. Further Shri Kuldeep Parashar was sent on a post which could not have been filled by deputation. The order of transfer of Shri Kuldeep Parashar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Kuldeep Parashar is hereby **Quashed** and Shri Kuldeep Parashar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

Asstt. Grade III

238. As per Rules, 2000, the post of Asstt. Grade III cannot be filled up by deputation.

(i) Bhupendra Sasode

239. The file pertaining to deputation of Shri Bhupendra Sasode has been provided.

240. As per respondent no. 5, the parent department of Shri Bhupendra Sasode is Municipal Council Gohad, Distt. Bhind. By order dated 12-9-2018, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Bhupendra Sasode cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Bhupendra Sasode was sent on a post which could not have been filled by deputation. The order of transfer of Shri Bhupendra Sasode which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Bhupendra Sasode is hereby

Quashed and Shri Bhupendra Sasode shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(ii) Hemant Kushwaha

241. The file pertaining to deputation of Shri Hemant Kushwaha has been provided.

242. As per respondent no. 5, the parent department of Shri Hemant Kushwaha is Municipal Corporation, Ujjain. By order dated 5-10-2018, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Hemant Kushwaha cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Hemant Kushwaha was sent on a post which could not have been filled by deputation. The order of transfer of Hemant Kushwaha which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Hemant Kushwaha is hereby **Quashed** and Shri Hemant Kushwaha shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iii) Jitendra Singh Baghel

243. The file pertaining to deputation of Shri Jitendra Singh Baghel has not been provided.

244. As per respondent no. 5, the parent department of Shri Jitendra Singh Baghel is Municipal Corporation, Ujjain. By order dated 5-7-2019, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Jitendra

Singh Baghel cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Jitendra Singh Baghel was sent on a post which could not have been filled by deputation. The order of transfer of Shri Jitendra Singh Baghel which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Jitendra Singh Baghel is hereby **Quashed** and Shri Jitendra Singh Baghel shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iii) Ramendra Singh Gurjar

245. The file pertaining to deputation of Shri Ramendra Singh Gurjar has not been provided.

246. As per respondent no. 5, the parent department of Shri Ramendra Singh Gurjar is Municipal Council Silwani, Distt. Raisen. By order dated 15-11-2019, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Ramendra Singh Gurjar cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Ramendra Singh Gurjar was sent on a post which could not have been filled by deputation. The order of transfer of Shri Ramendra Singh Gurjar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Ramendra Singh Gurjar is hereby **Quashed** and Shri Ramendra Singh Gurjar shall

immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(iv) Brijendra Singh Kirar

247. The file pertaining to deputation of Shri Brijendra Singh Kirar has not been provided.

248. As per respondent no. 5, the parent department of Shri Brijendra Singh Kirar is Municipal Council Mahidpur, Ujjain. By order dated 17-3-2020, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Brijendra Singh Kirar cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Brijendra Singh Kirar was sent on a post which could not have been filled by deputation. The order of transfer of Shri Brijendra Singh Kirar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Brijendra Singh Kirar is hereby **Quashed** and Shri Brijendra Singh Kirar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(v) Ms. Nikita Sharma

249. The file pertaining to deputation of Ms. Nikita Sharma has not been provided.

250. As per respondent no. 5, the parent department of Ms. Nikita Sharma is Municipal Council, Soyatkalan, Distt. Aagar. By order dated 20-3-2020, She was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Ms. Nikita Sharma cannot be sent to Municipal Corporation, Gwalior except on deputation.

It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Ms. Nikita Sharma was sent on a post which could not have been filled by deputation. The order of transfer of Ms. Nikita Sharma which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Ms. Nikita Sharma is hereby **Quashed** and Ms. Nikita Sharma shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(vi) Abhishek Sharma

251. The file pertaining to deputation of Shri Abhishek Sharma has been provided.

252. As per respondent no. 5, the parent department of Shri Abhishek Sharma is Municipal Council Morena. By order dated 2-8-2023, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Abhishek Sharma cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Abhishek Sharma was sent on a post which could not have been filled by deputation. The order of transfer of Shri Abhishek Sharma which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Abhishek Sharma is hereby **Quashed** and Shri Abhishek Sharma shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to his parent department.

(vii) Vivek Sahay Shrivastava

253. The file pertaining to deputation of Shri Vivek Sahay Shrivastava has been provided.

254. As per respondent no. 5, the parent department of Shri Vivek Sahay Shrivastava is Municipal Council Daboh, Distt. Bhind. By order dated 24-3-2022, he was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Shri Vivek Sahay Shrivastava cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Shri Vivek Sahay Shrivastava was sent on a post which could not have been filled by deputation. The order of transfer of Shri Vivek Sahay Shrivastava which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Shri Vivek Sahay Shrivastava is hereby **Quashed** and Shri Vivek Sahay Shrivastava shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(viii) Smt. Sonali Parashar

255. The file pertaining to deputation of Smt. Sonali Parashar has not been provided.

256. As per respondent no. 5, the parent department of Smt. Sonali Parashar is Municipal Corporation, Indore. By order dated 15-3-2024, She was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Smt. Sonali Parashar cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Sonali Parashar was sent on a post which could not have been filled by deputation. The order of transfer of

Smt. Sonali Parashar which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even her transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Sonali Parashar is hereby **Quashed** and Smt. Sonali Parashar shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

(ix) Smt. Priyanka Dwivedi

257. The file pertaining to deputation of Smt. Privanka Dwivedi has not been provided.

258. As per respondent no. 5, the parent department of Smt. Privanka Dwivedi is Municipal Council Kolaras, Distt. Shivpuri. By order dated 18-5-3-2024, She was transferred to Municipal Corporation Gwalior on the post of Asstt. Grade III. Thus, it is clear that the State Govt. did not consider the fact that Smt. Privanka Dwivedi cannot be sent to Municipal Corporation, Gwalior except on deputation. It is not clear as to whether any consent of the parent department as well as borrowing department was obtained or not. Further Smt. Privanka Dwivedi was sent on a post which could not have been filled by deputation. The order of transfer of Smt. Privanka Dwivedi which in fact is in the nature of transfer on deputation, is contrary to the law laid down by Full Bench of this Court in the case of **Indore Nagar Nigam Karamchari Congress (Supra)**. In absence of any foundation, even his transfer order cannot be treated as a transfer on deputation. Therefore, the transfer order of Smt. Privanka Dwivedi is hereby **Quashed** and Smt. Privanka Dwivedi shall immediately stop functioning in Municipal Corporation, Gwalior and shall immediately report back to her parent department.

259. By order dated 5-5-2025, a specific direction was given to the respondent no. 5 to give the details of persons who are engaged in essential services so that

if any order of cancellation of their deputation is passed, then essential services of City of Gwalior may not come to halt.

260. It is submitted by Counsel for respondent no.5, none of the above mentioned persons are engaged in essential services.

261. Be that it may be.

262. The transfer of deputation of various class III employees have been cancelled, and they have been directed to immediately report back to their parent department. By order dated 16-4-2025, the respondent no. 5 was directed to immediately initiate the proceedings for filling up the posts by regular appointment and it has also been directed that the recruitment be made within a period of 8 months. Accordingly, liberty is granted to the Commissioner, Municipal Corporation, Gwalior, that if he is of the view that immediate relieving of few of the above mentioned person may hamper the working of Municipal Corporation, Gwalior, then by assigning special reason, he may retain such employee for a period of 8 months from today. It is made clear that aforesaid liberty is being given to the Commissioner, Municipal Corporation, Gwalior to avoid any circumstance which may bring the working of Municipal Corporation, Gwalior to a halt. However, it is believed that this liberty shall not be misused by the Commissioner for retaining the Class III employees and shall submit the list of those Class III employees to the Principal Registrar of this Court, who are intending to be retained by him thereby pointing out the special reasons for retaining such class III employee(s) for a period of 8 months.

263. It is made clear that all financial powers shall be exercised only by Commissioner, Municipal Corporation, Gwalior till the regular appointments or deputation (in accordance with Rules 2000) are made and the Commissioner, Municipal Corporation, Gwalior shall be personally responsible, if any irregularity is detected.

Whether the State Govt. should be directed to reimburse the salary of the employees who were illegally sent on transfer on deputation.

264. It is submitted by Shri Gaurav Mishra that Municipal Corporation, Gwalior would not like to make any statement in this regard.

265. Since, the Municipal Corporation, Gwalior is not interested in reimbursement of salary which was paid by it to those persons who were illegally sent on transfer on deputation or deputation, therefore, by keeping this question open, it is held that for the time being specially in view of indifference shown by Municipal Corporation, Gwalior, no direction is given in this regard. However, it is directed that in case, if the persons whose deputation or transfer on deputation has been cancelled and who are not retained by the Commissioner in view of liberty granted in para 262 of the order, still manages to work in Municipal Corporation, Gwalior, then the salary of those employees, who still work in the Municipal Corporation, Gwalior in spite of quashment of their deputation or transfer on deputation order, shall be paid by the State Govt. and they shall not be paid from the funds of the Municipal Corporation, Gwalior.

Conduct of Shri Anil Kumar Dubey, Add. Commissioner, in filing misleading and false reply

266. This Court by order dated 16-4-2025, has already held that Anil Kumar Dubey has filed false and misleading reply in relation to Dr. Anuj Sharma by stating that since he had completed his tenure of 2 years therefore, he has been repatriated.

267. Accordingly, issue notice to Shri Anil Kumar Dubey, to show cause as to why Contempt Proceedings may not be initiated against him. Office is directed to register a separate case under Contempt of Courts Act and list the said case on 18-6-2025.

268. Further more, the competent authority is also directed to initiate Departmental Enquiry against Anil Kumar Dubey for filing false reply on behalf of the State Govt. Let the Departmental Charge Sheet be issued within a period of one month from today, but certainly before his retirement.

269. The competent authority is directed to file a copy of the Departmental Charge Sheet before the Principal Registrar of this Court latest by 3-7-2025.

270. Accordingly, this petition is **allowed** and deputation/transfer on deputation of Shri Sangh Priya, Smt. Rajni Shukla, Shri Vijay Raj, Shri Munish Sikarwar, Shri Anil Kumar Dubey, Shri Dinesh Dixit, Shri Sunil Kumar Chauhan, Shri Amar Satya Gupta, Shri Santosh Sharma, Shri Vaibhav Shrivastava, Shri Bhanu Pratap Singh Tomar, Smt. Salini Singh, Smt. Pooja Mehkali, Shri Ashish Rajpoot, Shri Ashok Kumar Gupta, Shri Vishal Garg, Sushri Girishma Arya, Sushri Tanuja Verma, Shri Ravi Godiya, Sushri Suruchi Bansal, Shri Anil Chauhan, Shri Ajeet Jain, Smt. Varsha Mishra, Shri Rajesh Khare, Shri Pramod Pal, Shri Dharmendra Dhakad, Shri Jaggan Agrawal, Smt. Snehlata Parmar, Shri Dinesh Jatav, Shri Satendra Singh, Shri Rahul Dhoroliya, Shri Abhishek Singh Bhadauriya, Smt. Renu Tomar, Shri Rajkumar Koshta, Smt. Rupali Arya, Shri Prashant Rao, Shri Rajendra Singh Vikram, Shri Dharmendra Singh Parmar, Shri Deependra Sengar, Smt. Ritu Agrawal, Shri Sachin Savita, Shri Ankit Sharma, Smt. Sheetal Dandotiya, Shri Vivek Tyagi, Shri Jitendra Singh Rajawat, Shri Mahesh Pratap Singh Sikarwar, Shri Bhupendra Sasode, Shri Hemant Kushwah, Shri Jitendra Singh Baghel, Shri Ramendra Singh Gurjar, Shri Brijendra Singh Kirar, Sushri Nikita Sharma, Shri Abhishek Sharma, Shri Vivek Shrivastava, Smt. Salini Gupta, Smt. Ruchi Yadav, Smt. Sapna Chauhan, Sushri Sonali Parashar, Smt. Priyanka Dwivedi, Shri Sandeep Mishra, Shri Kuldeep Parashar are hereby **quashed**.

271. No orders as to cost.

**G.S. AHLUWALIA
JUDGE**

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