

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH
WRIT PETITION No.16652 of 2026

P.C. VERMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Sanjay K Agarwal- Senior Advocate with Shri Sarthak Nema- Advocate for the petitioner.

Shri Prashant Singh- Advocate General and Shri Swapnil Ganguly- Deputy Advocate General for the respondent State.

Shri Rahul Diwaker- Advocate for respondent No. 2.

Shri Harpreet Singh Ruprah- Additional Advocate General with Shri Akash Malpani- Advocate for respondent No.4.

Reserved on : 12/05/2026

Delivered on : 15/06/2026

ORDER

The present writ petition has been filed under Article 226 of the Constitution of India challenging the impugned order dated 29.04.2026 (Annexure P-9) issued by respondent No. 1, whereby, the additional charge of the post of Chief Engineer, PWD, Bridge Zone, Bhopal was withdrawn from the petitioner and the second

additional charge has been handed over to respondent No. 4 who is already holding charge of Chief Engineer, PWD, Bhopal Zone in additional capacity.

2. The factual matrix culminating in the present dispute is that the petitioner was initially appointed in the year 1992 to the post of Assistant Engineer, P.W.D., under a Special Recruitment Drive. By sheer dint of merit, the petitioner was promoted to the post of Executive Engineer in 2006 and further promoted to the post of Superintending Engineer (Civil) w.e.f. 04.04.2016.

3. By order dated 27.12.2022, petitioner was transferred and posted as In-charge Chief Engineer, P.W.D., North Circle, Gwalior (M.P.). Thereafter, by order dated 22.07.2024, petitioner was transferred on deputation as In-Charge Chief Engineer, Public Health and Family Welfare Department, Bhopal. The Directorate of Public Health repatriated the petitioner's services to P.W.D. and he was posted as In-Charge Chief Engineer in the office of Engineer-in-Chief by order dated 14.02.2025. Due to the suspension of the then Chief Engineer, Shri G.P. Verma, the petitioner was handed over the additional charge of In-charge Chief Engineer, P.W.D., Bridge Zone, Bhopal on 03.07.2025. A formal order confirming this additional arrangement was issued on 10.07.2025.

4. On 29.04.2026, respondent No. 2 issued a show-cause notice to the petitioner alleging irregularities in the evaluation of technical bids for Tender Nos. 453189 and 431977. The said show-cause notice was digitally signed at 17:05 hrs. Within a mere span of 3 hours on the very same day, the impugned order was issued withdrawing the petitioner's additional charge and handing it over to respondent

No. 4. The petitioner's date of birth is 02.12.1964 and he will superannuate in the month of December, 2026.

5. It is contended by the Ld. Senior Counsel for the petitioner that the impugned order issued is in blatant violation of Circular dated 22.07.2004 issued by the State Government which strictly prohibits the assignment of higher or additional charges to tainted officers facing disciplinary action. It is contended that respondent No. 4 holds a highly questionable service record and is currently facing multiple serious disciplinary actions including those concerning the collapse of newly constructed bridges and severe financial embezzlement worth crores in a 1,000-bed hospital project. Attention was also drawn to Memo dated 29.09.2020 (Annexure P-10) to show that the Engineer-in-Chief had informed the Principal Secretary, PWD about issuance of draft charge-sheet against the respondent No. 4 who was then posted as Executive Engineer, PWD Bridge Division, Seoni regarding damage to the submersible bridge over the Wainganga River at Keolari Palari Bhingarh Chhapara road under District Seoni. The Ld. Senior Counsel pointed out the charge-sheet appended to the memo, which levelled charges of extreme negligence against respondent No. 4 concerning the supervision of a submersible bridge's construction over the Wainganga river. This negligence resulted in a significant financial loss of Rs. 494.44 lakhs to the government, ultimately making him liable for disciplinary action under the Madhya Pradesh Civil Services Rules. A show cause notice dated 02.01.2021 (Annexure P-11) to said effect was also issued to respondent No. 4.

6. The Ld. Senior Counsel also drew this Court's attention to Communications dated 13.01.2025 and 16.01.2025, whereby, the direction was given to prepare draft charge-sheets against respondent No. 4 concerning the damage caused to a bridge constructed over the Wainganga River. Hence, it was contended that handing over charge to respondent No. 4 is a calculated move allowing him to manipulate the very departmental proceedings pending against him.

7. It was further argued that respondent No. 4, while serving as Additional Project Director (P.W.D., P.I.U., Gwalior) was issued a charge sheet in a matter concerning the construction of a 1000 bed hospital at Gwalior in which respondent No. 4 submitted a reply that was evaluated in an official assessment dated 27.04.2023, wherein, it was concluded by Additional Project Director (P.W.D., P.I.U., Gwalior) that if initial complaints had not been filed, the financial irregularities committed by respondent No. 4 would have caused a permanent, unrecovered revenue loss of Rs. 2,41,76,008/- to the State Exchequer and hence, a recommendation was given that the government shall take a final decision regarding the misconduct of respondent No. 4. Although in the reply filed by respondent State, it has been shown that the Engineer-in-Chief vide its Report dated 11.08.2023 has not found anything adverse against the respondent No. 4 but a final decision is pending at the level of State Government which is accepted by the respondent and no document has been placed on record to show that a final decision has been arrived.

8. Learned Senior Counsel also showed paragraph no. 29 of the Reply filed by State Government to contend that it is virtually accepted by the respondent itself that a charge-sheet in the matter of damage caused to bridge in Seoni was issued and the disciplinary enquiry is still pending, hence, handing over charge to respondent No. 4 is in sheer violation of the Circular of 2004.

9. It was further emphatically argued by Ld. Senior Counsel for the petitioner that the respondents have acted contrary to the *Madhya Pradesh Public Works Department Engineer-In-Chief and Chief Engineers Recruitment and Conditions of Service Rules, 1983*. Under Rule 6 of the Rules, 1983, for promotion to the post of Chief Engineer, the committee considers those who have completed five years of service on the post of Superintending Engineer. It was thus contended that even in cases of temporary arrangements, the charge should generally be given to someone who is in the zone of consideration for promotion but on the contrary, the respondent department has handed over the officiating charge of Chief Engineer to as many as 12 regular Executive Engineers who fundamentally fall outside the zone of consideration for promotion to the post of Chief Engineer. This administrative anomaly results in junior officers holding charges of multiple higher posts, creating severe hierarchical disturbance and defeating the statutory promotion guidelines laid down in the Rules, 1983. It is thus contended by the Senior Counsel that the impugned order is bad in law and deserves to be set aside by this Court.

10. *Per contra*, the Ld. Advocate General appearing for the respondent State contended that an employee has no vested, absolute or fundamental right to hold an additional or current duty charge. He relies on the judgment of Hon'ble Supreme Court in the case of ***State of Haryana vs. S.M. Sharma*** to support this claim. It is further averred by the Ld. Advocate General that the withdrawal of the additional charge does not alter the petitioner's substantive service conditions nor does it cause any prejudice to his original pay, perks or status. The respondent State justifies the withdrawal of the charge by alleging suspicious conduct on the part of the petitioner. It is specifically alleged that as a key member of the technical evaluation committee, the petitioner was involved in procedural lapses, manipulation of technical evaluation sheets and improperly qualifying an ineligible bidder for certain tenders. To buttress his submission, attention is drawn to paragraph no. 20 and 21 of the Reply to contend that if the State Government will take further action against the petitioner then his presence as Chief Engineer (Bridge), PWD, Bhopal may be prejudicial. It is thus contended that the act of petitioner in tender evaluation is anomalous and hence, the issuance of impugned order is justified.

11. Regarding the severe allegations of financial embezzlement amounting to Rs. 2,41,76,008/- against respondent No. 4 concerning the 1,000 bed hospital project in Gwalior, the Ld. Advocate General asserts that the Engineer-in-Chief has scrutinized the charges and accepted respondent No. 4's reply and

recommended the closure of those charges. Reliance is placed on Report dated 11.08.2023 (Annexure R-6).

12. The Ld. Advocate General has also drawn attention of this Court to various Note Sheets (Annexure R-5) which led to issuance of show cause notice dated 29.04.2026 (Annexure P-8) to petitioner. It was contended that the matter was processed at the level of State Government where the matter of petitioner was moved from the Additional Secretary to Principal Secretary level and then it went to the Cabinet Minister and ultimately a decision was taken for withdrawal of additional charge from the petitioner. It was thus contended that in view of the approval of Cabinet Minister, it cannot be said that the show cause notice has been issued to petitioner without approval of competent authority.

13. Heard the respective counsels.

14. This Court finds that the actions of the State authorities are deeply troubling. At the very outset, this Court takes serious note of the conduct of the Principal Secretary, PWD. By order of this Court dated 07.05.2026, a specific directive was issued calling for a personal affidavit of the Principal Secretary indicating the reasons and policies that guided the respondent authorities in issuance of the impugned order particularly in light of the pending disciplinary actions against respondent No. 4 and the mandate of the Circular dated 22.07.2004. It appears that the Principal Secretary, PWD filed a reply as Officer-in-Charge of respondent No. 1 to 4 while the designated Officer-in-Charge was Superintending Engineer who had filed an application for vacating stay. This

Court terms this action of Principal Secretary unprecedented as instead of filing a specific personal affidavit answering the questions posed by this Court, a generic reply has been filed. This Court sought personal affidavit of Principal Secretary, PWD to understand departmental modalities/policy/circular/method and modus operandi for handing over additional charge to the employees who are facing disciplinary actions pertaining to financial irregularities. Astonishingly, the Principal Secretary, PWD submitted a reply segmented into Part A, Part B and Part C supported by his own affidavit which was not required nor directed by this Court.

15. It is patently clear that the averments made in the reply are designed merely to shield respondent No. 4 who is facing severe departmental action amongst which one involves serious financial embezzlement of Rs. 2,41,76,008/- and another involves collapsing of bridge in Seoni built during the tenure of respondent No. 4 as Executive Engineer leading to loss of huge amount of public money and an additional burden on State Exchequer.

16. While the Ld. Advocate General correctly argues that an employee has no indefeasible right to hold an additional charge, the administration cannot use this power as an excuse to act unfairly, arbitrarily, capriciously or in a malafide manner. The timeline in the present case where a show cause notice is issued and the petitioner is divested of his charge within three hours reflects a predetermined mind and bypasses the fundamental tenets of natural justice.

17. The decision to assign second additional charge to respondent No. 4 shocks the conscience of this Court. It is an admitted fact on record that there exists instructions for preparing draft charge sheets against respondent No. 4 for his active involvement in the collapse of a bridge at Seoni. By handing over such additional charge and posting respondent No. 4 in the very office responsible for processing the disciplinary proceedings, the State has effectively permitted a delinquent officer to oversee his own prosecution. This is the very definition of a colourable exercise of power and a direct violation of the maxim *Nemo judex in causa sua* (no one is a judge in his own cause). Furthermore, the State has failed to provide any lawful justification for bypassing its own Circular dated 22.07.2004 which explicitly bars handing over charges of higher posts to tainted officers. Clause 1 of Circular dated 22.07.2004 states as:-

“1. विभाग के अंतर्गत किसी भी पद के रिक्त होने पर जब तक उस पद पर सक्षम अधिकारी शासन द्वारा नवीन अधिकारी की पदस्थापना नहीं की जाती है तब तक उसे पद पर निम्न अनुसार अधिकारी रिक्त पद का चालू कार्यभार दिया जाए। अधिकारी को चालू कार्यभार देते समय इस बात का ध्यान रखा जाए कि उस अधिकारी के विरुद्ध सिविल सेवा नियमों के अंतर्गत विभागीय जांच प्रचलित तो नहीं है। इसके अलावा यह भी देखा जाए कि उसके विरुद्ध लोकायुक्त, ईओडब्लू, सी.टी.आई अथवा शासन की किसी अन्य सतर्कता संस्था के द्वारा विभागीय कार्यवाही की अनुशंसा तो नहीं की गई है अथवा किसी गंभीर व्यक्ति अनियमित की शिकायत के संबंध में की गई प्रारंभिक जांच में दोषी तो नहीं पाया गया है। ऐसे अधिकारी जिनके विरुद्ध सामान्य अभियोजन की कार्यवाही प्रचलित है को भी चालू कार्यभार न दिए जाए।”

18. A perusal of said Clause contemplates that when a departmental post falls vacant, its temporary working charge can be assigned to eligible officers until a

permanent appointment is made, provided they have a clean disciplinary and legal record. The authorities must ensure that the officer is not facing any pending departmental inquiries under the Civil Services Rules, lacks disciplinary recommendations from vigilance agencies like the Lokayukta or EOW and has not been found guilty in preliminary investigations for serious irregularities and does not have any pending general prosecution proceedings.

19. Applying the mandate of the aforementioned Circular to the facts at hand, a perusal of the record unequivocally reveals that the respondent No. 4 falls squarely within the strict embargo provided therein. The documents placed on record viz. Annexures P-10, P-11, P-12 and P-13 demonstrate that respondent No. 4 has been found *prima facie* guilty in preliminary investigations concerning serious irregularities, including severe infrastructural failures leading to loss of public money and financial embezzlement of Rs. 2,41,76,008/-. Furthermore, he is actively facing ongoing disciplinary actions, including the issuance of a formal charge sheet which is evident from paragraph no. 29 of the Reply filed by respondent State. Consequently, the decision to hand over the additional charge of Chief Engineer to an officer possessing such a tainted record is not merely an administrative oversight but an action taken in absolute defiance of the explicit prohibition laid down in the Circular.

20. Furthermore, the defence raised by the respondent State regarding the Engineer-in-Chief's recommendation through Report dated 11.08.2023 to close charges against respondent No. 4 is highly evasive. While the Engineer-in-Chief

may have recommended closure by accepting respondent No. 4's reply, the respondent State cannot discard the glaring fact that the Additional Project Director, P.W.D., P.I.U., Gwalior explicitly opined that respondent No. 4 is involved in serious financial embezzlement of Rs. 2,41,76,008/-. The final decision on this grave issue of financial embezzlement remains pending before the State Government. Therefore, giving the responsibilities of a higher position to an officer facing such serious allegations goes completely against the principles of good administration.

21. Furthermore, the respondent State cannot absolve itself of its duty to follow its own Circular dated 22.07.2004 which explicitly bars handing over charges of higher posts to tainted officers. The removal of the petitioner divesting him of his charge within three hours of a show cause notice to illegally accommodate respondent No. 4 who is facing serious departmental actions falls squarely within the doctrine of '*malice in law*' as laid down by the Hon'ble Supreme Court in ***Somesh Tiwari v. Union of India, (2009) 2 SCC 592***. *Malice in law* is demonstrated when an administrative action is taken with a predetermined mindset. It is true that an employee does not possess an indefeasible right to hold an additional or temporary charge but at the same time, the administration is prohibited from using this administrative power as an excuse to act unfairly, arbitrarily, capriciously or in a malafide manner. For the reasons mentioned hereinabove, this Court does not hold the sanctity of the impugned order to be correct and as per law and hence, the same is quashed and set aside.

22. Since, attention is also drawn to Rule 6 of *Madhya Pradesh Public Works Department Engineer-In-Chief and Chief Engineers Recruitment and Conditions of Service Rules, 1983* which provides for condition of eligibility for promotion to the higher post of Engineer-in-Chief and Chief Engineer of PWD Department, this Court finds that the statutory mechanism cannot be bypassed to accommodate junior officers falling outside the zone of consideration for promotion through the backdoor of temporary arrangements. Rule 6 of Rules, 1983 states that:-

“Rule 6: Condition of eligibility for promotion

(1) For promotion to the post of Engineer-in-Chief, the Promotion Committee shall consider the cases of all persons who have completed 2 years of service on the post of Chief Engineer, whether in officiating capacity or in substantive capacity and for promotion to the post of Chief Engineer the Promotion Committee shall consider the cases of all persons who have completed 5 years service on the post of Superintending Engineers in the Public Works Department.

(1-a) For promotion to the post of Engineer in Chief, Chief Engineer and Chief Engineer (R.D.&D.), the degree in Civil Engineering shall be an essential qualification.

(2) Selection for inclusion in the list of candidates for promotion shall be based on merit and suitability in all respects with due regard to seniority.

(3) The Promotion Committee shall prepare a list of such persons who satisfy the conditions prescribed in sub-rules (1) and (2) and are held by it to be suitable for promotion to the post of Engineer-in-Chief or Chief Engineer, as the case may be.

(4) If in the process of selection it is proposed to supersede any person, the Promotion Committee shall record its reason for the proposed supersession.”

23. This Court is aware that Rule 6 strictly and expressly deals with the statutory mechanism for regular promotion whereas the present controversy pertains to the handing over of an additional/temporary charge. However, this

Court must firmly differentiate and contextualize the two. While the State possesses the administrative flexibility to make temporary arrangements in the exigency of public service, it cannot use this power as a loophole to avoid the legal conditions of eligibility. The principles of administrative propriety dictate that the zone of consideration designed for regular promotions cannot be completely ignored from the assignment of temporary charges.

24. If the State is permitted to assign the charge of a Chief Engineer or for that matter Engineer-in-Chief to any junior officer such as a regular Executive Engineer, it effectively renders the eligibility as stated under the statute in form of Rule 6 redundant. Such actions constitute a backdoor entry, allowing the State to accommodate favoured junior officers who fundamentally fall outside the legally mandated zone of consideration.

25. This Court feels compelled to point out the catastrophic administrative consequences of such arbitrary practices. Handing over the charge of a highly sensitive and superior post like that of a Chief Engineer to a junior officer entirely bypassing the rank of Superintending Engineer disrupts the hierarchical discipline of the department. The same will lead to severe resentment among senior, eligible officers. More alarmingly, placing a junior officer in a position of immense financial and administrative power far beyond their substantive rank and entitlement may create grounds for nepotism, favouritism and rampant corruption and such officer may lack independent discipline in taking decisions.

26. Therefore, to preserve institutional integrity and prevent the arbitrary circumvention of Rules of 1983 involving service conditions of Engineer-in-Chief and Chief Engineer which are top-tier positions in the PWD department, this Court holds that even in cases of temporary arrangements or additional charges, the State must as far as practical restrict its choice to those eligible officers who legitimately fall within the zone of consideration for promotion to that specific higher post. The statutory mechanism cannot be bypassed through the backdoor of temporary assignments.

27. Before parting with the decision, the Principal Secretary, PWD, is hereby strictly and sternly warned not to take the orders of this Court lightly. The circumvention of the order dated 07.05.2026 by filing a reply instead of a specific personal affidavit is highly deprecated which does not even answer the query raised particularly for not following the Circular dated 22.07.2004. The reply is designed in a manner to shield respondent No. 4 for his gross misconduct which is not at all expected from the model employer. Such arbitrary actions reflect poorly on an authority of this stature as the query was asked specifically because of serious and severe charges of financial embezzlement of Rs. 2,41,76,008/- and collapsing of bridge in Seoni leading to loss of public money against respondent No. 4. Furthermore, the bridge collapse points to gross negligence during its construction, posing a severe threat to human life, so the Principal Secretary needs to be careful while according additional charge/temporary charge to such officers.

28. Furthermore, the Principal Secretary, PWD in Part C of reply dealt with allegations levelled against the respondent No. 2 and 4. Upon reading paragraph no. 22 onwards, not a single word is mentioned regarding the Circular dated 27.02.2004, rather, said paragraphs defends the allegations against respondent No. 2 and 4 despite both having their own counsel. Furthermore, respondent No. 2 and 4 preferred neither to file any reply nor file written submissions after hearing and reserving this matter. This Court finds it surprising and improper that Principal Secretary, PWD, sought to defend respondent No. 2 and 4 when both the said officers were represented through their own counsel and specific affidavit was called from him on altogether different queries.

29. This Court also takes serious note of the disturbing trend of assigning charges of higher posts to junior officers who fall outside the zone of consideration. The Principal Secretary is sternly directed to ensure that in the future, additional or temporary charge of any higher post shall be handed over only to those officers who possess an unblemished service record and who are not facing any departmental action nor against whom any departmental proceeding is contemplated as it is seen that respondent No. 4 against whom serious allegations of financial embezzlement of public money amounting to Rs. 2,41,76,008/- and other serious charges pertaining to collapse of bridge exists, has been handed over second additional charge which is something, shocking conscience of this Court. Any deviation from this principle will be viewed seriously by this Court.

30. It is made clear that this Court has not made any adverse remark against the Principal Secretary, PWD but is merely warned not to act in a manner that is detrimental to the interest of public administration.

31. In view of the aforesaid, the impugned order dated 29.04.2026 cannot be sustained. It is vitiated by arbitrariness, malafides, malice in law and is in direct contravention of the State's binding circulars. Consequently, the Writ Petition is disposed of with the following directions as under:-

i. Considering the peculiar facts and circumstances of the present case and to ensure absolute fairness and transparency in administrative functioning, respondent No. 1, Principal Secretary, PWD is hereby directed to assign the additional/officiating charge of the post of Chief Engineer, PWD, Bridge Zone, Bhopal (M.P.) to any other eligible officer who falls squarely within the zone of consideration for promotion and possesses an unblemished service record. It is made clear that such an assignment must strictly adhere to the statutory mandate of the *Madhya Pradesh Public Works Department Engineer-In-Chief and Chief Engineers Recruitment and Conditions of Service Rules, 1983* and the Circular dated 22.07.2004 completely excluding any officer facing or contemplating disciplinary action or any corruption charges.

ii. A writ of certiorari is issued and the impugned order dated 29.04.2026 (Annexure P/9) is hereby quashed and set aside and

respondent State is at liberty to post any other officer if they deem fit and it should be in accordance with directions contained in Para 31(i) of this order and also in accordance with law.

iii. It is further directed in the interest of justice that till the final consideration of reply submitted by the petitioner to the show cause notice and its final outcome, the petitioner shall be posted out of Bhopal Bridge Zone as In-Charge Chief Engineer.

iv. The State Government is directed to ensure that all pending departmental enquiries and charge-sheets against respondent No. 4 are processed and finalized by an independent, competent authority, totally insulated from any interference by respondent No. 4 expeditiously and without being influenced by observations made in this order as observation made in this order is only for the purpose of deciding present *lis*.

v. Meanwhile, till the conclusion of all departmental enquiries/action, it is directed that State Government will keep respondent No. 4 away from Bhopal Zone as In-Charge Chief Engineer. This direction is being given as there are severe charges of financial embezzlement of public money amounting to Rs. 2,41,76,008/- and as there are also serious charges of collapse of a bridge which also led to misappropriation of public money. This direction is also being given as by impugned order, the office which has been entrusted with the

responsibility of preparing draft charge-sheet against respondent No. 4 would be led by respondent No. 4 himself which means that State has effectively permitted respondent No. 4 to oversee his own prosecution, which cannot be permitted.

vi. There shall be no order as to costs.

32. In view of the above terms, this writ petition is **disposed of**.

33. A copy of this order be forwarded to Chief Secretary of State of M.P. and Principal Secretary, P.W.D.

34. Certified copy as per rules.

(VIVEK KUMAR SINGH)
JUDGE