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WP-29524-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

&

HON'BLE SHRI JUSTICE DUPPALA VENKATA RAMANA

ON THE 22nd OF APRIL, 2025WRIT PETITION No. 29524 of 2022

*MANGESH VITTHAL KEKRE RESOLUTION PROFESSIONAL OF M/S
INDIAN SOYA INDUSTRIES PRIVATE LIMITED*

Versus

*MADHYA PRADESH GOVERNMENT MICRO SMALL AND MEDIUM
INDUSTRIES DEPARTMENT BHOPAL AND OTHERS*

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Appearance:

*Mr. Manoj Munshi, senior counsel assisted by Mr. Lucky Jain, counsel
for the petitioner.*

Mr. Bhuwan Deshmukh, counsel for the respondent/State.

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ORDER

Per. Justice Vijay Kumar Shukla

In the instant petition filed under Article 226 of the Constitution of India, the petitioner is challenging the order dated 26.08.2021 (Annexure-P/2) passed by the respondent No.3 canceling the terminating lease and also challenging the order dated 04.02.2022 (Annexure-P/3) passed by the Industries Commissioner as per Rule 44 of MP MSME Industrial Land, Building Allotment and Management Rules, 2001 and also the order dated 11.07.2022 (Annexure-P/4) passed by the Second Appellate Authority under the aforesaid rules i.e. the Secretary of the said Department.

Counsel for the petitioner argued that the same person has passed the



order while deciding the first appeal in the capacity of Industries Commissioner and also decided the second statutory appeal under the Rules (*Annexure-P/3 and Annexure-P/4*), thus the order passed in second appeal is in violation of the principles of natural justice as one cannot be a Judge in his own cause. A specific pleading in this regard is made in paras 6.6 and 6.7 of the petition. The respondents have filed the reply and the aforesaid fact is not disputed that the first appeal and second appeal under the relevant rules have been decided by the same person, however, it is submitted that the decided aforesaid appeals were decided by the same in different capacities.

After hearing counsel for the petitioner, the contentions of counsel for the respondents cannot be accepted that the person who has decided the first appeal and second appeal was acting in the different capacity. The same person cannot decide the statutory second appeal who have decided the first appeal, thus there is a blatant violation of principles of natural justice.

In view for the aforesaid, the order of the second appellate authority dated 11.07.2022 (*Annexure-P/4*) is hereby set-aside. It is brought to our notice that by now the Secretary/Principal Secretary of the Department is changed. The matter is remanded back to the Secretary/Principal Secretary of the Department to decide the second appeal afresh without being influenced by the earlier order after giving due opportunity to the petitioner and all parties by considering all the points which shall be advanced on behalf of the petitioner and other parties within a period of eight weeks from the date of filing of copy of the order passed today.

It is needless to say that the said authority shall pass a reasoned and



speaking order which shall be communicated to the petitioner. Since there was an appellate interim order passed by this court on 03.01.2023 directing the respondents that no coercive action shall be taken against the petitioner. The said IR is continued till the matter is decided afresh by the second appellate authority.

With the aforesaid, the present petition is partly allowed and disposed of, in above terms.

Certified copy, as per Rules.

(VIJAY KUMAR SHUKLA)
JUDGE

(DUPPALA VENKATA RAMANA)
JUDGE

Arun/-