

ITEM NO.24

COURT NO.6

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(Civil) No.246/2025

AP SRIVASTAVA

Petitioner(s)

VERSUS

STATE OF MADHYA PRADESH & ORS.

Respondent(s)

(IA No. 76828/2025 - APPROPRIATE ORDERS/DIRECTIONS, IA No.80672/2025 - EXEMPTION FROM FILING O.T., IA No. 76829/2025 - EXEMPTION FROM FILING O.T., IA No. 80671/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES & IA No. 78890/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

W.P.(C) No. 249/2025 (X)

(FOR EXEMPTION FROM FILING O.T. ON IA 78990/2025)

Date : 02-09-2025 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) :

Mr. Shyam Divan, Sr. Adv.
Mr. Samdarshi Tiwari, Sr. Adv.
Mr. Siddharth R Gupta, Adv.
Mr. Mrigank Prabhakar, AOR
Mr. Sudipto Sircar, Adv.
Mr. Ashish J. Matthews, Adv.
Mr. Aman Agarwal, Adv.
Mr. Uddaish Palya, Adv.
Mr. Aniket Mishra, Adv.
Mr. Siddharth Sahu, Adv.

For Respondent(s) :

Mr. Nachiketa Joshi, Sr. A.A.G.
Mr. Pashupathi Nath Razdan, AOR
Ms. Maitreyee Jagat Joshi, Adv.
Mr. Shantanu Krishna, Adv.
Mr. Astik Gupta, Adv.
Ms. Akanksha Tomar, Adv.
Mr. Yaduven, Adv.

Mr. Arjun Garg, AOR
Ms. Sagun Srivastava, Adv.
Mr. Saaranish Shukla, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Since the issues raised in both the captioned petitions are same, the parties are also the same and the reliefs prayed for are also by and large same, those were taken up for hearing analogously and are being disposed of by this common order.

2. The petitioner - Chairperson, Real Estate Regulatory Authority, Madhya Pradesh has invoked the jurisdiction of this Court under Article 32 of the Constitution and has prayed for the following reliefs:-

"a. Issue appropriate writ/order/directions quashing the inquiry proceedings i.e. via notice dated 20.02.2025, initiated under Section 26 Real Estate Regulatory Act read with Rule 35 of the MP RERA Rules bearing details as J-Disp-66/2025 against the petitioner pending before the inquiry committee constituted by the High Court of Madhya Pradesh, Jabalpur; and/ or

b. Issue appropriate writ/ order/ directions to call for the complete records in relation to the inquiry instituted under Sec. 26 of the RERA Act r/w Rule 35 of the MP RERA Rules bearing details as J-Disp-66/2025 against the petitioner pending before the inquiry committee constituted by the High Court of Madhya Pradesh, Jabalpur.

c. Issue any appropriate order/ direction, calling for the necessary files, documents and records pertaining to the correspondences between the respondent No.3 office/ Secretariat of the Chief Minister and the any office/ officer of the High Court of Madhya Pradesh, Jabalpur pertaining/ relating to removal of petitioner from his current post or institution of inquiry against him in relation thereof; and/ or

d. Pass any other and further order or orders as this Hon'ble Court may deem fit and proper in the facts and the circumstances of the case."

3. In the connected matter, it is the Real Estate Regulatory Authority, Madhya Pradesh that has invoked the jurisdiction of this Court under Article 32 of the Constitution and has prayed for the following reliefs:-

"a. Issue appropriate writ/order/directions quashing the subject inquiry proceedings instituted under sec. 26 of the RERA Act r/w Rule 35 of the MP RERA Rules bearing details as J-Disp-66/2025 against the Chairperson of the petitioner pending before the inquiry committee instituted by the High Court of Madhya Pradesh, Jabalpur; and/ or

b. Issue comprehensive directions and guidelines delineating the scope of interference by the State Government in the affairs of an independent, autonomous regulatory authority like RERA towards insulating its Chairperson and members (judicial and non-judicial) from being subjected to routine inquiry proceedings for their bona-fide discharge of official duties & decisions in quasi-judicial and administrative capacities, as also stipulated under Sec. 90 of RERA Act; and,

c. Issue comprehensive directions and guidelines holding that grounds for the removal of Chairperson (or any other person) as specified under Sec. 26 are not illustrative, but exhaustive of the powers available with the State Government of instituting any inquiry; inquiry cannot be instituted against any office bearer solitarily because he/ she loses the pleasure of the ruling dispensation or executive of the State; and,

d. Be pleased to hold that powers under Sec. 26 can be resorted to for removal of the Chairperson/ Other members only in very exceptional, rare and compelling circumstances for the removal and cannot be so done in a routine/ cavalier manner; and

e. Issue comprehensive directions and guidelines for the High Court establishments on the administrative side against taking cognizance of routine complaints or referral letters of the Chief Minister or any Cabinet Minister for instituting inquiry against the Chairperson/ members of RERA; and,.

f. Pass any other and further order or orders as this Hon'ble Court may deem fit and proper in the facts and the circumstances of the case."

3. We take notice of the order passed by this Court dated 27-3-2025 in Writ Petition (Civil) No.246/2025. The same reads thus:-

"1. We heard Mr. Shyam Divan, the learned counsel appearing for the petitioner.

2. The petitioner has invoked the jurisdiction of this Court under Article 32 of the Constitution inter alia praying for the following reliefs:-

a. Issue appropriate writ/order/directions quashing the inquiry proceedings i.e. via notice dated 20.02.2025, initiated under Section 26 Real Estate Regulatory Act read with Rule 35 of the MP RERA Rules bearing details as J-Disp-66/2025 against the petitioner pending before the inquiry committee constituted by the High Court of Madhya Pradesh, Jabalpur; and/ or

b. Issue appropriate writ/ order/ directions to call for the complete records in relation to the inquiry instituted under Sec. 26 of the RERA Act r/w Rule 35 of the MP RERA

Rules bearing details as J-Disp-66/2025 against the petitioner pending before the inquiry committee constituted by the High Court of Madhya Pradesh, Jabalpur.

c. Issue any appropriate order/ direction, calling for the necessary files, documents and records pertaining to the responses between the respondent No.3 office/ Secretariat of the Chief Minister and the any office/ officer of the High Court of Madhya Pradesh, Jabalpur pertaining/ relating to removal of petitioner from his current post or institution of inquiry against him in relation thereof; and/ or

Pass any other and further order or orders as this Hon'ble Court may deem fit and proper in the facts and the circumstances of the case."

3. Mr. Divan first took us through Annexure 'P-15' at page 270 of the paper book which reads thus:-

"Chief Minister's Office Madhya Pradesh

Subject:

As per the instructions of the Hon'ble Chief Minister, in the table attached in Appendix-1 of this note sheet the non-official nominations made in the corporation/ division/ board/ authority/ commission of the State are to be cancelled with immediate effect.

Therefore, it is respectfully requested to direct all concerned to take the above action as per rules, in compliance with the relevant legal provisions, and to obtain post facto approval in coordination with the Hon'ble Chief Minister.

Sd/-

(Raghavendra Kumar Singh)
Principal Secretary, Chief Minister

Chief Secretary Sir,

Issue today and send copy. Put up for post facto approval where necessary.

203/ M. M. K./ 2024
13.02.2024

Sd/-on 13/2

Secretary Madhya Pradesh Government"

4. Thereafter, he took us through the complaint filed against the petitioner - herein dated 5-7-2023 Annexure 'P-13' at Page 201 of the Paper Book and in the last, the learned counsel took us through the notice issued by the High Court of

Madhya Pradesh at Jabalpur dated 20-2-2025 Annexure 'P-19' at page 289 of the paper book. The same reads thus:-

"IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

Ref: Reg. No.4678/2024/21-B(One), Bhopal dated 25-11-2024, Law & Legislative Affairs Department, Bhopa

NOTICE
(Through Registered Post)

J-Disp-66/2025
February 20, 2025

To,

Shri Ajeet Prakash Shrivastava, Chairperson, M.P. Real Estate Regulatory Authority, 1, Main Road, Zone-I, Arera Hills, Bhopal-462011 (MP).

As directed by His Lordship Hon'ble Shri Justice Maninder S. Bhatti, Judge, High Court of M.P., Jabalpur, having been nominated by Hon'ble the Chief Justice, High Court of M.P., in terms of the provisions of Section 26 of the Real Estate (Regulation and Development) Act, 2016, to inquire into the complaints lodged against you before the Principal Secretary, Govt. of M.P., Urban Development and Housing Department, Bhopal, duly forwarded by the Principal Secretary, Govt. of M.P., Law & Legislative Affairs Department, Bhopal, you are requested to receive copies of the complaints along with enclosures and file your response thereon, expeditiously.

Therefore, you are requested to appear in the Secretariat of Hon'ble Shri Justice Maninder S. Bhatti, Court No.18, M.P. High Court, Jabalpur on or before 04.03.2025 during Court working hours, for the aforesaid purposes.

Please accept the notice and file your counter, if any, in quite promptitude within a period of two weeks, preferably by 28-03-2025, for further action.

Sd/-
(Ajay Kumar Chaturvedi)
Secretary to The Hon'ble Shri
Justice Maninder S. Bhatti"

5. Mr. Divan also invited the attention of this Court to Section 22 of the Real Estate (Regulation and Development) Act, 2016 which provides for the qualifications of Chairperson and the Members of the Authority.

6. He also invited the attention of this Court to the provisions of Section 26 which provides for removal of the Chairperson.

7. In the last, he brought to our notice Rule 35 of the Madhya Pradesh Real Estate (Regulation and Development) Rules, 2017.

8. Rule 35 reads thus:-

"35. Inquiry of the charges against the Chairperson or Member of the Authority or the Appellate Tribunal.- (1) In the event of the State Government becoming aware of occurrence of any of the circumstances Inquiry of the charges against the Chairperson or Member of the Authority or the Appellate specified in clause (d) or clause (e) of sub-section (1) of section 26 in case of the Chairperson or a Member of the Authority or under sub-section (1) of section 49 in case of the Chairperson or a Member of the Appellate Tribunal, by receipt of a complaint in this regard or suo motu, as the case may be, the State Government shall make a preliminary scrutiny with respect to such charges.

(2) On preliminary scrutiny and after obtaining the comments of the concerned Chairperson or Member, if the State Government considers that there exists a prima facie case for further investigation of the allegation, it shall place the complaint, together with supporting material as may be available, before a Judge of the High Court.

(3) The State Government shall forward to the Judge, copies of

(a) the statement of charges against the Chairperson or Member of the Authority or Appellate Tribunal, as the Case may be; and

(b) material documents relevant to the inquiry;

(4) The Chairperson or Member of the Authority or Appellate Tribunal, as the case may be, shall be given a reasonable opportunity of being heard with respect to the charges within the time period as may be specified in this behalf by the Judge conducting the inquiry into the matter.

(5) Where it is alleged that the Chairperson or Member of the Authority or Appellate Tribunal is unable to discharge the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the Judge may arrange for the medical examination of the Chairperson or Member of the Authority or Appellate Tribunal.

(6) After the conclusion of the investigation, the Judge shall submit his report to the State Government stating therein his findings and the reasons thereof on each of the articles of charges separately with such observations on the whole case as he thinks fit.

(7) Thereafter, the State Government shall in consultation with the Chief Justice of the High Court decide to either remove or not to remove the Chairperson or Member of the Authority or Appellate Tribunal, as the case may be.

9. According to Mr. Divan, the inquiry has been initiated in complete disregard and violation to the procedure prescribed under Rule, 35 and other provisions of Act, referred to above.

10. Issue notice returnable on 2-4-2025.

11. Dasti service, in addition, is permitted.

12. Liberty is granted to directly serve the Standing counsel for the State of Madhya Pradesh.

13. Till the next date of hearing, the inquiry initiated against the petitioner shall remain stayed."

4. We heard Mr. Shyam Divan assisted by Mr. Siddharth Gupta appearing for the petitioners in both the petitions & Mr. Arjun Garg and Mr. Nachiketa Joshi, the learned counsel appearing for the High Court of M.P. and State of M.P. respectively.

5. Today, when the matters were taken up for hearing, Mr. Arjun Garg, the learned counsel appearing for the High Court of Madhya Pradesh submitted that he has instructions from his client to make a statement that the High Court has decided to drop the inquiry. In other words, the High Court has taken a decision to recall the show cause notice dated 20-2-2025.

6. The communication received by the learned counsel in writing by e.mail is ordered to be taken on record and it shall be kept with the record of this case.

7. In the wake of the afore-stated developments, we need not now adjudicate the two petitions filed under Article 32 of the Constitution.

8. Both the Writ Petitions stand disposed of accordingly.

9. Pending applications, if any, also stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)