

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1934 of 2009**

- Ganga Ram Maderia S/o Late Ram Chandra Maderia, aged about 61 years, R/o Village Dhaba, Post Bhendsar, Tehsil & Distt. Durg (CG).

---- Petitioner**Versus**

1. District Central Co-operative Bank Maryadit Jagdalpur through Chairman, Jagdalpur, District Bastar (CG).
2. Manager District Central Co-Operative Bank Maryadit Jagdalpur, Distt. Bastar (CG)
3. Chief Executive Officer District Central Co-operative Bank Maryadit Jagdalpur, Distt. Bastar (CG)
4. Enquiry Officer (Branch Manager) District Central Co-Operative Bank Maryadit Jagdalpur, Branch Kondagaon, Distt. Bastar (CG).

---- Respondents

For Petitioner
For Respondents

Shri Manoj Chauhan, Advocate for the Petitioner.
Shri Harsh Chauhan, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order On Board

20/11/2015

1. Challenge in this petition is to the order dated 31.03.2008 (Annexure P/9) whereby terminating the Petitioner recovery order of Rs.85,749.83/- has also been passed against the Petitioner.
2. From perusal of records as well as reply filed by the Respondents, it is evidently clear that there was serious allegations and highly disputed questions of fact to be determined while adjudicating upon the veracity of

the order impugned dated 31.03.2008.

3. Admittedly, the Petitioner was an employee of Jila Sahkari Kendriya Bank which is an establishment under the Co-operative Societies Act and for redressal of grievance, alternative remedy of raising dispute before the cooperative court under Section 55(2) of the Chhattisgarh Co-operative Societies Act, 1960 (for short, the Act, 1960) is available to the Petitioner.
4. The Supreme Court in series of decisions and this court also in various decisions has held that where there is alternative statutory remedy available, the writ court should not entertain the writ petition. Latest judgment of Supreme Court in this regard is Union of India and Others Vs. Major General Shri Kant Sharma¹ wherein in para 36 it has been observed as under :

“36. The aforesaid decisions rendered by this Court can be summarised as follows:

(ii)The jurisdiction of the High Court under Article 226 and this Court under Article 32 though cannot be circumscribed by the provisions of any enactment, they will certainly have due regard to the legislative intent evidenced by the provisions of the Acts and would exercise their jurisdiction consistent with the provisions of the Act.

(iii)When a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.

(iv)The High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.”

5. Considering the said legal proposition and also taking into consideration the disputed question of fact involved in the present case particularly the allegations levelled against the Petitioner which can only be decided after

¹ 2015 (6) SCC 773

conducting enquiry and recording of evidence, which by either side would not be permissible in the writ jurisdiction. On this ground alone, the writ petition deserves to be dismissed.

6. However, liberty would be reserved to the Petitioner that in case he chooses to raise dispute before the concerned authority under Section 55(2) of the Act, 1960 within a period of 30 days from today, the period spent before the writ court shall not come in way while deciding the limitation part in approaching the authorities under the Act, 1960 and the authority concerned shall decide the case on its own merits.
7. Needless to state that the authority would decide the dispute after giving full opportunity to the parties.
8. Accordingly, the writ petition is dismissed with the aforesaid liberty. No order as to costs.

Sd/-

(P.Sam Koshy)

JUDGE