

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5293 of 2008**

- Santosh Kumar Wahane S/o late Shri Kanhaiyalal Wahane, aged about 47 years, occupation Chief Executive Officer, Janpad Panchayat, Patthalgaon, R/o Patthalgaon, Distt. Jashpur (CG).

---- Petitioner**Versus**

1. State Of Chhattisgarh through its Secretary, Department of Panchayat and Rural Development, DKS Bhawan, Raipur (CG).
2. Collector, Raigarh, Distt. Raigarh (CG).

---- Respondents

For Petitioner	Shri Vinay Pandey, Advocate.
For Respondents/State	Shri Prafull Bharat, Additional Advocate General.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****20/11/2015**

1. Challenge in this petition is to the order dated 17.06.2008 whereby the Respondents have issued an order of recovery against the Petitioner to the tune of Rs. 9.42 Lakhs.
2. Counsel for the Petitioner submits that the said recovery order has been passed without proper inquiry being conducted so as to determine the actual loss which has been occurred to the Respondents on account of the act on the part of the Petitioner. He would further submit that except for a show

cause notice, there was no proper inquiry conducted to actually ascertain the the negligence on the part of the Petitioner resulting into loss of Rs. 9.42 Lakhs which has been ordered to be recovered from the petitioner. He next submits that a bare reading of order impugned itself shows that it was not the Petitioner alone who was posted during the relevant period and other officers were also posted at that relevant time. He therefore submits that the State authorities ought to have conducted a specific inquiry to ascertain the specific nature of work which has been got executed during the tenure of the petitioner so as to determine the negligence on the part of the present petitioner which resulted into loss of Rs. 9.42 Lakhs, and therefore, the order impugned is not sustainable and the same deserves to be set aside.

3. On the other hand, learned State counsel defending the order impugned submits that a perusal of order impugned would show that the amount of loss has been determined and apportioned the said loss among the concerned officers who were posted at the relevant period. The loss which has been ascertained apportioned in case of the petitioner comes to Rs. 9.42 Lakhs and therefore, this petition does not warrant any interference. He would next submit that even otherwise, the petitioner was given a show cause notice prior to passing of recovery order and therefore principles of natural justice has been followed by the Respondents.
4. Having considered the rival submissions put forth by the parties and having perused the order impugned, it would clearly reveal that the Respondents were not very specific in its finding as to what is the actual loss which has occurred on account of misconduct or negligence on the part of the present Petitioner except for implicating him only for the reason that during the said

period when loss is alleged to have been caused, the petitioner happened to be posted there.

5. If it is the contention of the State that there were loss of approximately 37-38 Lakhs during the said period, then the State was duty bound to have first conducted an inquiry in respect of nature of works which were carried out during tenure of the petitioner and to what extent he was responsible for the said loss. Further, the State authorities also ought to have ascertained the individual responsibilities in respect of each of the officers posted during the relevant period before determining the loss to be recovered from each of the responsible officers. The Respondents further ought to have at least specified the total works which were executed during the posting of petitioner at the relevant place and the amount of work which were executed under the supervision of the petitioner before he was transferred from the said place prior to passing the impugned order.
6. Considering the overall facts and circumstances of the case, this court is of the opinion that the impugned order is not sustainable for the aforesaid reasons and the same is set aside. However, liberty is reserved in favour of the State, if they so chose, to pass appropriate order afresh after conducting inquiry and after ascertaining the individual damages caused, particularly by the Petitioner.
7. Accordingly, the writ petition is allowed to the above extent, no order as to costs.

Sd/-
(P.Sam Koshy)
JUDGE