

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1274 of 2013

- Rajesh Kumar Singh S/o Shri Yashwant Kumar Singh Aged About 42 Years, Occupation-Agriculturist, R/o Mulmula, Block Pamgarh, Tehsil Pamgarh, Dist Janjgir Champa, Civil & Revenue Distt Janjgir Champa, Cg

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Cooperative Mahanadi Bhawan, Capital Complex, Raipur, Dist Raipur, Cg
2. Registrar Cooperative Societies, Raipur, Cg
3. Deputy Registrar, Cooperative Societies, Dist Janjgir Champa, Cg
4. Sewa Sahakari Samiti Maryadit Mulmulla through its Society Manager, Mulmulla, Tahsil-Pamgarh, District Janjgir Champa (C.G.)

---- Respondents

For Petitioner
For Respondent/State
For Respondent No.4

Shri Rajeev Shrivastava, Advocate
Shri Arun Sao, Dy. AG
Shri Sushobhit Singh, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

17/11/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner is aggrieved by the order (Annexure-P-1) passed by the Deputy Registrar, Cooperative Societies, Janjgir-Champa, whereby the said authority under the Chhattisgarh Cooperative Societies Act, 1960

(for short 'the Act, 1960') has held the petitioner guilty of obtaining fresh loan while the earlier obtained loan remained unpaid. The Deputy Registrar has directed the Sewa Sahakari Samiti Maryadi, Mulmulla to take action against the petitioner for his removal from the Board of Directors/Membership. Based on the impugned order, the Society has passed a resolution on 06.01.2014 removing the petitioner from the office of President of the Society.

3. An objection regarding maintainability of the writ petition has been raised by the respondents, however, in view of the admitted position that the petitioner was not afforded any opportunity of hearing by the Deputy Registrar, Cooperative Societies before passing the impugned order, this writ petition has been entertained. Even though, the impugned order itself has not directed for the petitioner's removal, but it only instructs the Society to take such steps, yet there being a finding adverse to the petitioner recorded in the impugned order itself, it was not open for the Society to take any different stand in the matter.
4. Having considered the submissions made by the learned counsel for the parties and particularly for the reason that the petitioner has allegedly obtained the loans prior to his election as President of the Society and since according to the respondents, the impugned order is appealable before the Joint Registrar, Cooperative Societies, this Court deems it appropriate to dispose of the writ petition by directing the petitioner to prefer an appeal under Section 77 of the Act, 1960 before the Joint Registrar, within a period of one month from today. On submission of such appeal, the Appellate Authority shall consider and decide the appeal after issuing notice to all the concerned parties, at the earliest, preferably within a period of 6 months from the date of

preferring the appeal. Since the order (Annexure-P-1) has been passed by the Deputy Registrar, Cooperative Societies without giving any opportunity of hearing to the petitioner, it is directed that during pendency of the appeal before the Appellate Authority, the petitioner shall be allowed to function as President of Sewa Sahakari Samiti Maryadit, Mulmulla.

5. It is made clear that this Court has not opined on the merits of the case either way and all issues both factual and legal shall remain open to be agitated by the parties.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala