

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1327 of 2013

1. Yuva Kalyan Samiti Throgh Sharad Dewangan S/o S.L. Dewangan
Aged About 45 years President Yuva Kalyan Samiti, Shriram Colony
Beladula Ps Charadhar Nagar Distt. Raigarh C.G.

---- Petitioner

Versus

1. Union Of India Through Its Secretary Ministry Of Rural Development
Deptt. Of Land Resources, Nbo Building Nirman Bhawan Ps
Parliament House New Delhi
2. State Of C.G. Through Principal Secretary Deptt. Of Panchayat &
Rural Development Mantraya Mahanadi Bhawan Ps New Raipur,
C.G.
3. State Level Nodel Agency Through Chief Executive Officer, Office Of
The Development Commissioner First Floor Vikas Bhawan Civil Lines
Ps Civil Lines Raipur C.G.
4. Collector District Jashpur Ps Jashpur C.G.
5. Chief Executive Officer Zila Panchayat Jashpur Ps Jashpur C.G.
6. Chief Executive Officer Janpad Panchayat Pharsabahar, Ps
Pharsabahar Distt. Jashpur C.G.
7. Executive Engineer Rural Engineering Services Division, Jashpur, Ps
Jashpur, Distt. Jashpur C.G.
8. Sub Divisional Officer Rural Engineering Services Sub Division
Pharsabahar, Ps Pharsabahar Distt. Jashpur C.G.
9. Jai Prakash Maurya Chief Executive Officer Zila Panchayat Jashpur
Ps Jashpur Distt. Jashpur C.G.
10. Shri Rattho Ram Painkara Assistant Project Officer Watershed Cell
Zila Panchayat Jashpur Ps Jashpur Distt. Jashpur C.G.

---- Respondent

For Petitioner : Shri AV Shridhar, Adv.
For Respondents No. 1 : Shri RK Kesharwani, Adv.
For Respondents No. 2 to 8 : Shri Adil Minhaj, P.L.
For Respondent No.10 : Shri D.R. Minj, Adv.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

31/07/2015

As per the petition, the petitioner is a Non-Government Organization and is a duly registered society under the Societies Registration Act. The petitioner society undertook various projects under the Integrated Water Shed Management Projects and the society was appointed as Project Implementation Agency. Certain financial embezzlement was allegedly committed by the petitioner society which ultimately led to passing of the order dated 12.7.2011 whereby the petitioner was removed as Project Implementation Agency after report of the enquiry committee (Ex.P/11). This order was assailed by the petitioner in WP(c) No.4156/11 and vide order dated 13.6.2013 after setting aside the order dated 12.7.2011 it was directed by this Court that respondent No.5/Chief Executive Officer, Zila Panchayat, Jashpur, would consider the case of the petitioner afresh after proper reply is filed by the petitioner and the petitioner was granted two weeks' time to file his reply.

2. Learned counsel for the petitioner submits that pursuant to order passed by this Court, on 16.6.2013 vide Annexure P/13 the petitioner had submitted his detailed reply which was duly received by the competent authority on 25.6.2013 but yet while passing the impugned order, respondent No.5 has first proceeded ex-parte against the petitioner and then has passed the impugned order. While referring to the impugned order (Annexure P/1) it has been argued by the petitioner that the petitioner did receive the letter dated 23.7.2013 and immediately thereafter filed another response on 2.8.2013 (Annexure P/14) but despite this the order impugned has been passed ignoring the reply submitted by the petitioner. It is further submitted that the petitioner is not afraid of any order against him, but the order should be

passed after considering his reply and in all fairness, respondent No.5 should have considered the earlier order passed by this Court. He submits that after setting aside the impugned order dated 13.8.2013, the matter may be remitted back to respondent No.5 for passing a fresh reasoned order.

3. State counsel disputes the fact that any reply was submitted by the petitioner after issuance of letter dated 23.7.2013.

4. Counsel appearing for respondent No.10 submits that on 10.2.2011 (Annexure P/5) the petitioner had admitted the fact of committing embezzlement and therefore, even if he has filed any reply, the same is of no consequence. He submits that if the matter is remitted back to respondent No.5, liberty may be granted to respondent No.5 to pass fresh order considering the admission made by the petitioner vide Annexure P/5.

5. In reply to this, it has been submitted by counsel for the petitioner that no such admission was ever made by the petitioner.

6. Counsel for the Union of India has duly assisted the Court.

7. Heard counsel for the parties and perused the material on record.

8. It appears that pursuant to order passed by this court in WP(c) No.4156/11 dated 13.6.2013 the petitioner had submitted his reply on 16.6.2013 and after receipt of the letter dated 23.7.2013, on 2.8.2013 also the petitioner gave details of the reply submitted by him earlier. However, while passing the impugned order it has been mentioned that as the petitioner has not filed his reply, the petitioner has been proceeded ex-parte. In the considered opinion of this Court, this fact does not appear to be correct.

9. Thus, considering the facts and circumstances of the case, in the larger interest of justice the impugned order dated 13.8.2013 (Annexure P/1) is set aside. The matter is remitted back to respondent No.5 to pass a reasoned

order afresh after considering the reply submitted by the petitioner dated 16.6.2013 and 2.8.2013 in accordance with law. The respondent authorities would be also at liberty to consider any other document submitted by the petitioner pursuant to correspondence made between the parties. The petitioner is directed to submit all the relevant documents along with copy of this order before respondent No.5 within four weeks from today and in turn, it is expected from the concerned authority to pass appropriate order within further four weeks.

It is made clear that this Court has observed nothing on merits of the case and the competent authority would be at liberty to pass order strictly in accordance with law on the basis of facts and circumstances of the case and the reply submitted by the petitioner.

10. With the aforesaid observations, the petition stands disposed of.

Sd/

(Pritinker Diwaker)

Judge