

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2911 OF 2016**

Vishram Lal Sahu son of Shri Bhagwani Sahu, aged about 57 years, working as Assistant Internal Audit and Taxation Officer, Janpad Panchayat, Lailunga, R/o Lailunga, Tah. Lailunga, Distt. Raigarh, Civil and Revenue Distt. Raigarh (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Panchayat and Social Welfare Department, Mahanadi Bhavan, Mantralay, New Raipur (C.G.)
2. Commissioner, Panchayat and Social Welfare Department, Indrawati Bhavan, Raipur, Distt. Raipur (C.G.)
3. Joint Director, Panchayat and Social Welfare Department, Bilaspur Division, Bilaspur (C.G.)
4. Collector (Panchayat Section), Raigarh, Distt. Raigarh (C.G.)
5. Sub Divisional Officer (Revenue), Lailunga, Tah. Lailunga, Distt. Raigarh C.G.
6. Chief Executive Officer, Janapad Panchayat, Lailunga, Distt. Raigarh (C.G.)

---Respondents

For Petitioner	: Mr. Manoj Kumar Sinha, Advocate
For Respondent-State	: Mr. S. P. Kale, Dy. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****15/07/2016**

1. The petitioner has filed this petition assailing legality, validity and correctness of the order of penalty dated 28/01/2016 and consequential proceedings of recovery.
2. The petition discloses that aggrieved by the order of penalty, the petitioner has already preferred departmental appeal before the departmental authority. However, no application for stay was filed before the departmental authority and when penalty order is put to execute by issuance

of demand letter dated 22/06/2016 by respondent No. 6, this petition has been filed assailing entire proceeding, departmental order and penalty order.

3. In the opinion of this Court, once the petitioner has already filed appeal, this Court is not inclined to examine the merits of the penalty order. Petitioner has already taken recourse to the remedy of appeal. If petitioner is aggrieved by execution proceeding, his remedy lies in making prayer for stay of execution of order of penalty before the appellate authority, where the appeal of the petitioner is pending, instead of filing this petition. For that reason alone, I am not inclined to entertain this petition and same is dismissed with liberty to make application for stay before the appellate authority.

4. Needless to say, if application for stay is filed before the appellate authority, the same shall be considered and decided at the earliest.

5. With the aforesaid observation, this petition is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge