

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1241 of 2009

1. Gorelal Sharma S/o Chandulal Sharma, aged about 59 years, Presently Posted And Working As Supervisor, Seva Sahakari Samiti Maryadit Sarkanda, Bilaspur (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh, through the Secretary, Department of Cooperative Societies, DKS Bhawan, Mantralaya, Raipur (CG).
2. Assistant Registrar (Audit), Cooperative Societies, Bilaspur (CG)
3. Recovery Officer, Cooperative Societies Bilaspur (CG)
4. Dhanush Ram Sahu S/o Mayaram Sahu, aged about 40 years, Purchase In-Charge, Seva Sahakari Samiti Maryadit, Sarkanda Bilaspur (CG)

---- Respondent

For Petitioner
For Respondent/State

Shri Rajendra Tripathi, Advocate
Shri Arvind Dubey, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/04/2017

1. Petitioner is aggrieved by the order Annexure-P/1, which, in fact, is a consequence of order Annexure-R-1-3/1, by which fine of Rs.5,000/- has been imposed on the petitioner by the Deputy Registrar, Cooperative Societies, in exercise of powers under Section 56 (3) of the Chhattisgarh Cooperative Societies Act, 1960 (*for short 'the Act, 1960'*).

2. Petitioner was working as Supervisor in the Seva Sahakari Samiti Maryadit, Durvakari, Masturi, wherefrom he was transferred on 18-9-2007 and posted in the same capacity in Seva Sahakari Samiti Maryadit, Branch Sarkanda, Bilaspur. At Sarkanda, the petitioner joined as In-charge Manager of the society because the office of the Manager was lying vacant.
3. Petitioner was issued a show cause notice under Section 56 (3) of the Act, 1960 on 5-4-2008 for his failure to submit the account within a period of 3 months from the date of end of financial year 2006-07. The petitioner submitted his reply, which was not found satisfactory and the impugned order Annexure-R-1-3/1 was passed and subsequently, the impugned order Annexure – P/1 was passed for recovery to the tune of Rs.5000/- towards penalty imposed on him.
4. It is argued that under Section 56 (2) of the Act, 1960 the Society has to submit the financial report within a period of three months from the date of closing of financial year, therefore, for the financial year 2006-07, the financial report ought to have been submitted within a period of three months from 31-3-2007 i.e. by the end of June, 2007, therefore, the petitioner having joined at Sarkanda on 11-10-2007, the fault lies with the previous Manager and the penalty imposed on the petitioner is illegal and misplaced.
5. Learned counsel for the State, *per contra*, would support the impugned order.

6. Having perused the provisions of Section 56 (2) and having perused the papers available in the writ petition, it would appear that the petitioner was transferred to Sarkanda Society on 18-9-2007, pursuant to which he joined on 11-10-2007, therefore, the duty to submit the financial report within a period of three months from the end of the financial year was on the previous Manager, who was having the charge of society at the relevant point of time.
7. In the result, the writ petition deserves to be and is hereby allowed on this count alone because during the statutorily required period the petitioner was not working as Manager of the Sarkanda Society for which he has been held liable. Accordingly, the impugned orders Annexure-R-1-3/1 & Annexure – P/1 are quashed. If the amount has already been recovered from the petitioner, the same shall be refunded to him within a period of three months from today.
8. Certified copy of this order be supplied to the parties only after incorporation of the amendment by the petitioner in the original writ petition.
9. There shall be no order as to cost(s).

Sd/-

Judge
Prashant Kumar Mishra

Gowri