

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 567 of 2017

Premnath Nayak @ P. N. Nayak S/o. Late Kushket Prasad Nayak, Aged About 56 Years R/o Aadarshnagar, House No. 2, North Bastar, Kanker, District Kanker (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary, Geology And Mining Department, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. Additional Secretary Geology And Mining Department, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
3. Director, Geology And Mining Department, Raipur, District Raipur (Chhattisgarh)
4. Joint Director, Geology And Mining Department, Raipur (Chhattisgarh)
5. Deputy Director, Geology And Mining Department, Raipur (Chhattisgarh)
6. Mining Officer, North Bastar, Kanker, P.S. & P.O. Kanker, District Kanker (Chhattisgarh)
7. Collector, District Kanker (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Vikram Dixit, Advocate
For State	:	Shri Satish Gupta, Govt. Advocate.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

21/06/2017

Heard.

1. This petition has been filed by the petitioner assailing correctness and validity of the order dated 5.2.2016 (Annexure P-1) passed by the Appellate Authority by which the petitioner's appeal has been dismissed.
2. Amongst various grounds which have been raised in this petition, one of the main submission made by learned counsel for the petitioner is that the order passed by the Appellate Authority is completely non-speaking and it does not show that any of the grounds raised by the petitioner in his appeal was taken into consideration.

3. Relying upon the judgment of this Court in the case of **Soniram Dhruv, Vs. State of Madhya Pradesh & Ors.** (WPS No.1367 of 2005, decided on 5.2.2010), it is submitted that in an identical situation and circumstances, similar non-speaking order passed by the Appellate Authority was held illegal and set aside. Further reliance is placed in another order dated 27.2.2017 passed in WP No.2615 of 2005 in the case of **Nasir Khan Vs. State of Chhattisgarh and Ors.**
4. Learned counsel for the State submits that though the order does not deal with the reasons in detail, a perusal of the same shows that the Appellate Authority had gone through the entire records and upon being satisfied that the appeal has no merit, the order has been passed.
5. Having gone through the impugned order passed by the Appellate Authority, this Court has no iota of doubt that the impugned order can only be termed as non-speaking and nothing else. It speaks nothing much less considering any of the grounds raised by the petitioner. The Hon'ble Supreme Court and this Court has been repeatedly reminding the authorities, the duty while exercising quasi-judicial functions like appellate jurisdiction in departmental enquiry with reference to provisions contained in Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. In the case of one **Soniram Dhruv** (supra), this Court, after relying upon number of decisions and going through the order similar to the order passed in the present case, held as under :-

“17. If the orders, passed by the Appellate Authority and other Authorities are scrutinized by applying aforesaid principle of law laid down keeping in view statutory requirement as to the manner of consideration of an appeal, it leads to inevitable conclusion that the order passed by the Appellate Authority does not contain any reason whatsoever and is mechanical affirmation without considering the appeal according to the statutory service rules muchless application of mind to the specific grounds raised by the petitioner in his appeal. Therefore, the orders passed by the Appellate Authority and other Higher Authorities affirming the order passed in appeal are unsustainable in law and liable to be set aside.”

6. In view of the above, the impugned order passed by the Appellate Authority cannot be sustained it being non-speaking in nature. On this ground alone, the

impugned order passed by the Appellate Authority is liable to be set aside and is accordingly set aside.

7. It needs to be underlined that this Court has not decided merits of the case as such but the order is being set aside on the ground that it does not decide the appeal by speaking order. The matter is remanded to the Appellate Authority for due and proper consideration of appeal of the petitioner after affording him opportunity of hearing and decide the same in accordance with the law laid down by this Court in the cases of **Soniram Dhruv** (supra) and **Nasir Khan** (supra), copy of which shall also be submitted by the petitioner before the competent authority.
8. The petition is accordingly allowed to the extent and in the manner indicated above.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge