

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPS No. 2276 of 2017**

- Lal Singh Dewangan Son of Late Shri S. L. Dewangan, Aged About 55 Years, posted as Area Assistant, at Present Paddy Collection Centre, Katghora, Chhattisgarh State Cooperative Marketing Federation Limited, District - Korba Chhattisgarh

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through The Secretary, Department of Cooperative Societies, Mahanadi Bhawan, Mantralaya New Raipur, Post Office & Police Station Naya Raipur, District - Raipur Chhattisgarh
2. Chhattisgarh State Cooperative Marketing Federation Limited, The Managing Director, Chhattisgarh, Chhattisgarh State Cooperative Marketing Federation Limited, 880, Civil Lines, Head Office, Raipur Chhattisgarh
3. The Secretary, Chhattisgarh State Cooperative Marketing Federation Limited, 880, Civil Lines, Head Office, Raipur Chhattisgarh
4. The Manager (Establishment), Chhattisgarh State Cooperative Marketing Federation Limited, 880, Civil Lines, Head Office, Raipur Chhattisgarh

**---- Respondents**

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|---------------------------|--------------------------------|
| For Petitioner            | Shri V. R. Tiwari, Advocate    |
| For Respondent-State      | Shri Arvind Dubey, PL          |
| For Respondent-Federation | Shri Harshal Chouhan, Advocate |

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**Hon'ble Shri Justice Prashant Kumar Mishra**

**Order On Board**

**16/05/2017**

1. The challenge in this writ petition is to the order passed by the Managing Director, Chhattisgarh State Marketing Federation, by which penalty of stoppage of two increments of the petitioner with

cumulative effect has been ordered. In addition there was also an order of recovery of amount made against the loss sustained by the respondent Federation.

2. At this juncture, it has been informed that against the impugned order, the petitioner has preferred an appeal before the Managing Director, who is appellate authority and the Managing Director in turn has seized of the appeal.
3. The limited contention of the petitioner is that though the appeal has been seized by the Managing Director and it is in the process of being heard, the Respondent Authorities have initiated steps for recovering the amount of loss which has been alleged to have been caused at the hands of the petitioner.
4. Learned Counsel for the petitioner submits that while appeal is pending, the Respondent authorities ought not to have taken steps for recovery. At least they should have waited till the appeal is finally decided. The appellate authority would have to consider the entire facts and submission in the appeal and then would reach to a conclusion whether the order of punishment is justified or not. Only then the Respondent authorities should have proceeded further with the recovery.
5. The said submission of the petitioner seems to be a fair and reasonable proposal. Once when there is an order of punishment having been passed which is appealable and an appeal also having been preferred, in the opinion of this Court, there is no reason why the Respondent-Authorities should immediately act on the order of punishment. Once the appeal has been

indisputably seized by the Appellate Authority, the Appellate Authority is obliged to decide the appeal within the stipulated or within a reasonable period. If it has not decided within the stipulated period and at the same time insists on the recovery of the alleged amount of damage from the petitioner, then the very purpose of filing an appeal gets frustrated.

6. In view of the same, ends of justice would meet if the writ petition is disposed of with a direction to the Appellate Authority/ Respondent No.2 to take a decision on the appeal of the petitioner, which is pending before it preferably within a period of 3 months from today. It is further ordered that till the Appellate Authority decides the appeal, the Respondent Authorities shall not act upon the impugned order so far as the recovery is concerned.
7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala