

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5596 of 2016**

1. Radhelal Soni S/o Shree Taturam Soni, Aged About 61 Years Posted As Timekeeper At Municipal Corporation Mungeli, R/o Sonarpara, Mahamai Ward, Mungeli, P.S. Mungeli, District Mungeli, (Chhattisgarh)
2. Gend Singh Rajput, S/o Late Shree Mitthu Singh, Aged About 52 Years Posted As Assistant Revenue Incharge, Municipal Corporation Mungeli, R/o Village Chaarbhatha, P.O. Kodwabani, Tehsil & District Mungeli, (Chhattisgarh)

---- Petitioners**Versus**

1. State of Chhattisgarh Through Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
2. Chief Municipal Officer, Municipal Corporation, Mungeli, District Mungeli, (Chhattisgarh)
3. President, Municipal Corporation, Mungeli, District Mungeli, (Chhattisgarh)
4. District Collector, Mungeli, District Mungeli, (Chhattisgarh)
5. Jay Jay Yadav, S/o Shree Arjun Yadav, Aged About 37 Years R/o Vinobha Bhawe Ward, Mungeli, Tehsil & District Mungeli, (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Anish Tiwari, Advocate
For Respondents-State	:	Shri Shashank Thakur, GA for the State
For Respondents No.2 &3	:	Shri Akhilesh Kumar, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****03/04/2017**

1. Petitioners would call in question the order passed by Municipal Council, Mungeli directing recovery of Rs.13,85000/-.

2. After hearing learned counsel for the parties and on perusal of the papers, it would appear that the competent officer of the Municipal Council has not issued any order under his signature directing recovery of the amount from the petitioners. There is some note-sheet filed by the petitioner as Annexure P-3, which is an internal communication in form of file noting, wherein a decision has been taken to recover the amount from the petitioners but no formal order has been issued by the Chief Municipal Officer. It further appears, petitioners have rushed to this Court because without issuing any formal order of recovery, the amount was sought to be recovered by deducting certain installments from their salary.
3. Learned counsel for the respondents would not dispute that the petitioners were not issued any show-cause notice before affecting recovery in installments from their salary and further that there is no formal order of recovery issued by the Municipal Council against the petitioners.
4. It is settled law that the order having civil consequences cannot be passed against the person concerned without issuing any show-cause notice or providing opportunity of hearing. (See: **Bhagwan Shukla Vs. Union of India & others**¹ and **Murlidhar Gautam Vs. State of M.P. (now CG) & others**²)
5. In view of the foregoing, since the recovery has been affected without affording proper opportunity of hearing, action in making recovery of

¹ AIR 1994 SC 2480

² 2008 (3) CGLJ 288

the amount is declared illegal reserving liberty in favour of the Municipal Council, Mungeli i.e. Respondents No.2 & 3 to re-initiate the proceedings for recovery against the petitioners after following principles of natural justice.

6. The writ petition stands allowed in the above stated terms with the aforesaid liberty reserved.

Sd/-

Judge

Prashant Kumar Mishra

Ashu