

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4337 of 2017**

H. R. Nirmalkar S/o Late Shri Hemuram Nirmalkar, Aged About 40 Years Posted As Area Assistant Kissan Rice Mill, Chhuriya, District Rajnandgaon, 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**

For Petitioner	:	Mr. V.R. Tiwari, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer
For Respondents No. 2 to 4	:	Mr. Keshav Dewangan, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

31/08/2017

Heard.

1. The challenge in the present Writ Petition is to the order dated 15.03.2017 passed by respondent No.3 recovering the amount made against the loss of paddy sustained by the Respondent Corporation.
2. At this juncture, it has been informed that against the impugned order, the petitioner had preferred an appeal before the Managing Director, who is appellate authority and the Managing Director in turn has seized 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 is alleged to have been caused at the hands of the present 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 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 he has not decided within the stipulated time 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 present 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 him. 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 present Writ Petition stands disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge