

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3397 of 2017

Anil Kumar Banaj S/o Shri M. S. Banaj, Aged About 46 Years Senior Cooperative Inspector, Registrar Cooperative Society, Indrawati Bhavan, Naya Raipur (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Co-Operative, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur (Chhattisgarh).
2. Deputy Registrar, Cooperative Societies, Bilaspur District Bilaspur, (Chhattisgarh).
3. Chhattisgarh State Cooperative Tribunal, Bilaspur, District, District Bilaspur (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri H.B. Agrawal Sr. Advocate with Smt. Prabha Sharma, Advocate
For State	:	Shri Prafull Bharat, Addl. Advocate General

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

Order On Board

27/07/2017

Heard.

1. The petitioner has assailed legality and validity of order dated 21.6.2017 passed by the State Cooperative Tribunal in which certain observations has been made against the petitioner and the authority has been directed to make recovery against the petitioner and to impose penalty.
2. It is submitted by learned counsel for the petitioner that after the order passed by the Tribunal, the authority in the department has swung in action and a notice has been issued to the petitioner and the petitioner is apprehending that in a farce of enquiry, order of recovery may be issued against the petitioner. He submits that the Tribunal fell in error in recording a finding against the petitioner though the petitioner was not a party in his personal capacity in the proceedings

before the Tribunal.

3. Learned counsel for the State submits that the Tribunal, while adjudicating upon a dispute raised against a Society by one Umakant Pathak, made certain observations against the petitioner which are recommendatory in nature. He submits that the petitioner has now been issued a notice and would be afforded a reasonable opportunity of hearing in the matter and appropriate decision in accordance with law would be taken only after affording opportunity of hearing and due application of mind to the defence of the petitioner and relevant material available with the competent authority.
4. The Tribunal, while deciding an appeal, made certain disparaging remarks against the petitioner. The Tribunal has also proceeded to record a finding against the petitioner though the petitioner was not noticed. While deciding the matter, such kind of remarks and finding cannot be treated anything more than the recommendation.
5. It would be open for the petitioner to submit his defence and obligatory on the part of the authority who has issued notice, to apply its mind, examine the records, consider defence and pass appropriate order in accordance with law. The order of the Tribunal should not be treated as command but only a direction for holding an enquiry against the petitioner.
6. In case, the petitioner is aggrieved with any order that may be passed in future against him, he shall always be at liberty to challenge the same before the appropriate forum in accordance with law.

Sd/-
(Manindra Mohan Shrivastava)
Judge