

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1916 of 2017

- Ghanshaym Prasad Tiwari S/o Late Shri Kamlakant Tiwari, Aged About 33 Years, Occupation Service, Working As Accountant, District Central Co-Operative Bank, Bilaspur, R/o Post And Village Malhar, Police Station and Tehsil Masturi, District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Co-Operatives, Mantralaya, Mahanadi Bhawan, Capital Complex, Naya Raipur, Chhattisgarh.
2. Registrar, Co-Operative Societies, Indravati Bhawan, Capital Complex, Naya Raipur, Chhattisgarh.
3. Joint Registrar, Co-Operative Societies, Bilaspur Division, Old Composite Building, Opposite Collectorate, Bilaspur, Police Station Civil Lines, Tehsil And District Bilaspur (Chhattisgarh)
4. Collector-Cum- Authorized Officer, District Central Co-Operative Bank, Bilaspur, Police Station Civil Lines, Tehsil And District Bilaspur, Chhattisgarh.
5. Chief Executive Officer, District Central Co-Operative Bank, Bilaspur, Police Station Civil Lines, Tehsil And District Bilaspur, Chhattisgarh.
6. Abhishek Tiwari, S/o Shri Tiwari, Aged About 40 Years Occupation Service, Working As Chief Executive Officer, District Central Co-Operative Bank, Bilaspur, Police Station Civil Lines, Tehsil And District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner
For Respondent-State
For Respondent-DCCB

Shri R. S. Marhas, Advocate
Shri Y. S. Thakur, Addl. AG
Shri Jitendra Shrivastava, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

24/04/2017

1. By order dated 16.03.2017 (Annexure-P-1), the District Central Cooperative Bank Limited (for short 'DCCB'), Bilaspur has cancelled the petitioner's promotion on the post of Assistant Accountant and Accountant.
2. The writ petition has been preferred bypassing the statutory remedy under Section 55 (2) of the Chhattisgarh Cooperative Societies Act, 1960 (henceforth 'the Act, 1960') on the plea that based on some audit objections, the Registrar, Cooperative Societies, Chhattisgarh has addressed a communication to the Collector-cum-Authorized Officer, DCCB on 27.05.2016 for taking action to cancel the recruitment or promotion, therefore, such order being in the nature of exercise of powers under Section 80-A of the Act, 1960, the remedy available to the petitioner under Section 55 (2) is meaningless.
3. First of all, the Registrar does not seem to have issued the letter (Annexure-P-3) in exercise of powers under Section 80-A of the Act, 1960 and moreover, even if such power is exercised, the adjudicatory mechanism provided under Section 55 (2) of the Act, 1960 is akin to original jurisdiction for adjudication of dispute brought before the Registrar or the Deputy Registrar as a quasi judicial body, therefore, while exercising powers under Section 55 (2) of the Act, 1960, the Authority is bound by the law and the material placed before it and not by any administrative communication issued by any authority, be it the Registrar or any other officer of the concerned department of the State Government. The jurisdiction under Section 55 (2) of the Act,

1960 is separate and distinct than the administrative power conferred on various levels of Registrar under the Act, 1960.

4. Let the petitioner move before jurisdictional Deputy Registrar under Section 55 (2) of the Act, 1960 raising the dispute for decision making by the said authority. It is directed that while conducting the adjudicatory mechanism under Section 55 (2) of the Act, 1960, the concerned Deputy Registrar or Joint Registrar, as the case may be, shall not be influenced by any order passed by the Registrar in any manner whatsoever and shall decide the dispute strictly in accordance with applicable laws and on the basis of evidence, both oral and documentary, submitted before it by the parties to the dispute.
5. The writ petition stands disposed of with the above observation.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala