

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 76 of 2017

(Arising out of judgment/order dated 16.05.2017 in Case No.
2280/2017)

- Dilip Kumar Sahu S/o Late Shri Ghansi Ram Sahu, Aged About 59 Years R/o Village & Post Portha, Tahsil Samli, District Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration And Development, Ministry, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. The Director, Directorate Of Department Of Urban Administration And Development, Ministry, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
3. The Joint Director, Department Of Urban Administration And Development, Regional Office, Bilaspur, District Bilaspur, Chhattisgarh
4. Chief Municipal Officer, Nagar Panchayat Lormi/ New Baradwar, District Janjgir-Champa, Chhattisgarh

---- Respondents

For Petitioner Shri Alok Bakshi, Advocate

For Respondent-State Shri Rajendra Tripathi, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

21/08/2017

1. At the relevant time, the petitioner was holding the substantive post of Revenue Sub Inspector but was functioning as In-charge Chief Municipal Officer, Nagar Panchayat Lormi. He

has been visited with penalty of stoppage of two increments without cumulative effect as also recovery of the loss caused to the concerned Municipality vide order passed by the State Government on 11.01.2017. The petitioner preferred WPS No.2280/2017 to challenge the order of punishment and recovery, however, the petition was withdrawn on 16.05.2017 with liberty to prefer an appeal to challenge the orders dated 11.01.2017 and 20.02.2017.

2. It is now contended that under Section 39 read with Section 31 of the Madhya Pradesh Municipal Service (Executive) Rules, 1973 (henceforth 'the Rules, 1973'), which is referred in the State Government' order dated 11.01.2017, the order of punishment is appealable before the State Government when the order is passed by the Director, Urban Administration, therefore, since the order impugned in the writ petition was passed by the State Government itself, the appellate remedy is not available to the petitioner.
3. Learned State counsel would not dispute the provisions contained in the Rules, 1973 and the fact that the order passed by the State Government also refers to the said Rules.
4. In view of the provisions of the Rules, 1973, the impugned order having been passed by the State Government itself and not by the Director, whether or not the appellate remedy is available to the petitioner is debatable. Therefore, the order passed in WPS No.2280/2017 on 16.05.2017 dismissing the writ petition on a prayer for withdrawal with liberty to file appeal

is recalled. WPS No.2280/2017 is restored to its original number. Let the writ petition be listed for hearing before the appropriate Bench.

5. The review petition stands disposed of.

Sd/-
Judge
Prashant Kumar Mishra

Nirala