

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2541 of 2016**

- Shrimati Rukhmani Verma W/o Dr. Dhaleen Verma Aged About 47 Years R/o Village Khudmudi Post Chatoda Via Baikunth Police Station Nevra Tahsil Tilda District Raipur Chhattisgarh, The Ex President Of Prathmik Krishi Sakh Sahkari Samiti Devri Registered No 1503 Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary of Department Of Cooperative Societies, Mantralaya Naya Raipur Chhattisgarh
2. State Of Chhattisgarh Through The Secretary Of The Department Food Civil Supply Corporation And Consumer Protection Mantralaya Naya Raipur Chhattisgarh
3. Collector, Raipur Chhattisgarh
4. Chief Executive Officer, Jila Sahkari Bak Maryadit Raipur Chhattisgarh
5. District Marketing Officer of District Raipur Office District Marketing Federation Raipur Chhattisgarh
6. Manager of Prathmik Krishi Sakh Sahkari Samiti Devri Registered No 1503 Chhattisgarh Village Khudmudi Post Chatoda Via Baikunthpur Police Station Nevra Tahsil Tilda, District Raipur Chhattisgarh
7. Registrar, Cooperative Societies Mantralaya Naya Raipur, Chhattisgarh
8. Deputy Registrar of Co Operative Societies 1st Floor Vivekanand Complex Vivekanand Nagar Pensionbada Raipur Chhattisgarh

---- Respondents

For Petitioner	Shri A. M. Tiwari, Advocate
For Respondent-State	Shri Arun Sao, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

03/03/2017

1. Petitioner is the ex President of the Primary Agricultural Credit Cooperative Society, Devri, Tahsil Tilda, District Raipur. She would assail the appellate order passed by the Chhattisgarh Cooperative Tribunal dismissing the appeal, which in turn was preferred against the order passed by the Registrar, Cooperative Societies, Chhattisgarh on 10.12.2015 and the order passed by the Deputy Registrar, Cooperative Societies, Raipur on 06.04.2015.
2. The matter pertains to supersession of the petitioner's society in exercise of power under Section 53 (1) (b) of the Chhattisgarh Cooperative Societies Act, 1960 (henceforth 'the Act, 1960').
3. Without adverting to the unnecessary details, suffice it would be to mention that on 18.11.2014 the petitioner was served with a notice under sub-section (15) (b) 2) of Section 57 (B) of the Act, 1960 requiring the petitioner to show cause as to why appropriate action for causing financial loss to the Society be not initiated against her. The petitioner submitted her reply, which finds mention in the order under Section 53 (1) (b) passed by the Deputy Registrar. However, the fact remains that the initial notice issued to the petitioner was not for the intended action of supersession of the society, but it was for

taking action for causing financial loss to the society. Thus, there was no notice to the petitioner as required under sub-section (15) (b) (2) of Section 57 (B) of the Act, 1960.

4. In a similar matter wherein a notice was issued, but either the notice was found defective or the reason assigned in the order of supersession was not found complying with the principles of natural justice, Division Bench of this Court in the matter of **Umend Singh Marko and others vs State of Chhattisgarh and others**, passed on 26.03.2015 in Writ Appeal No.205/2015, held thus in paragraph Nos. 6 to 9:-

6. Natural justice cannot be read as confined to the giving of a show cause notice and fulfilling the formality of stating that the cause shown has been considered but not found satisfactory. If a power is given to a statutory authority it has to be exercised in accordance with law and within the limits of the statutory jurisdiction. Section 53(2) of the Act provides for opportunity to show cause and "consideration" of the cause shown.
7. The connotation of the word "considered" cannot be lost sight of. It means application of mind to the cause shown vis-a-vis the allegations to arrive at a reasoned conclusion why the cause shown was not acceptable. Reasons in an order are proof of consideration. Consideration signifies an act done after careful thought which can only be reflected through reasons.
8. Reasons have been held to be but a facet of the principles of natural justice. They are the ultimate control over arbitrariness in exercise of statutory powers. If cause is shown and the statutory authority finds it difficult to deal with the explanation given, it shall be very convenient for him to act arbitrarily and state in one line only that it was not satisfactory. Reasons have been held to be the heart and soul of an order giving an insight into the

mind of the decision maker displaying that he has considered all the aspects of the matter and took into consideration all relevant materials before arriving at a decision. If an order is appellable, reasons are all the more necessary. Unless the aggrieved is first told why the cause shown by him was not acceptable, he shall be severely handicapped in filing the appeal. The appellate remedy will then be rendered illusory as the grounds urged by him will be vacillating from one to another unsure of what were the reasons why the cause shown was rejected.

9. The importance of a reasoned order by a quasi judicial authority was considered in (2010) 3 SCC 732 (Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samiti) observing as follows:

"40. It is a settled legal proposition that not only an administrative but also a judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the court is bound to give reasons for its conclusions. It is the duty and obligation on the part of the court to record reasons while disposing of the case. The hallmark of an order and exercise of judicial power by a judicial forum is to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of justice-delivery system, to make known that there had been proper and due application of mind to the issue before the court and also as an essential requisite of the principles of natural justice. *"The giving of reasons for a decision is an essential attribute to judicial and judicious disposal of a matter before courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the court concerned had really applied its mind."*

41. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute

subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum.

42. Thus, it is evident that the recording of reasons is a principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as to why his application has been rejected.”

5. In the case at hand also, the notice issued to the petitioner was not for any action under Section 53 (1) (b) of the Act, 1960. There is thus absolute non compliance of the principles of natural justice, which is ingrained in the statutory provisions contained under Section 53 (2) of the Act, 1960, therefore, the impugned order (Annexure-P-3) passed by the Deputy Registrar, Cooperative Societies on 06.04.2015 deserves to be and is hereby set aside. However, liberty is reserved in favour of the concerned Deputy Registrar to proceed in accordance with law after providing proper opportunity of hearing to the petitioner.
6. Accordingly, the writ petition is allowed in the above stated terms.

Sd/-
JUDGE
PRASHANT KUMAR MISHRA

Nirala