

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1455 of 2017**

Mahajan Prasad Nishad S/o late Shri Heera Singh Nishad, aged about 58 years, posted as Field Assistant, Chhattisgarh Marketing Federation, District Balodabazar (Chhattisgarh)

---- **Petitioner****Versus**

1. State of Chhattisgarh through the Secretary, Department of Cooperative Societies, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
2. Managing Director, Chhattisgarh State Marketing Federation- 880, Civil Lines, Head Office, Raipur, District Raipur (Chhattisgarh)
3. Secretary, Chhattisgarh State Marketing Federation- 880, Civil Lines, Head Office, Raipur, District Raipur (Chhattisgarh)
4. Manager (Establishment), Chhattisgarh State Marketing Federation- 880, Civil Lines, Head Office, Raipur, District Raipur (Chhattisgarh)

---- **Respondents**

For Petitioner	:	Mr. V. R. Tiwari, Advocate
For State/R-1	:	Mr. Garry Mukhopadhyay, Dy. Govt. Advocate
For Respondents No.2 to 4	:	Mr. P. N. Bharat with Mr. Mayank Chandrakar, Advocates.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****24.03.2017**

1. The challenge in the present Writ Petition is the order dated 04.02.2017 passed by the Respondent No.3 by which the stoppage of two increments of the Petitioner with cumulative effect has been ordered. In addition there was also an order of recovery of amount made against the loss sustained by the Respondent corporation.
2. At this juncture it has been informed that against the impugned order the Petitioner has 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 a 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 period 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 preferably within a period of 3 months from today. 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/-

(P. Sam Koshy)

JUDGE

Bhola