

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4263 of 2017**

Sarita Jaitwar D/o S. R. Jaitwar, Aged About 47 Years R/o Sultana House, Near
Coopan Mal, Baran Bazar Raipur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Chhattisgarh Khadi And Gram Uddyog Board, Chhattisgarh Undertaking Government Of Chhattisgarh Mantralaya Raipur Chhattisgarh
2. The President Chhattisgarh Khadi And Gram Uddyog Board Chhattisgarh Undertaking R-14 Anupam Nagar, Raipur Chhattisgarh
3. The Managing Director, Chhattisgarh Khadi And Gram Uddyog Board Chhattisgarh Undertaking R-14 Anupam Nagar Raipur Chhattisgarh
4. The Deputy Director, Chhattisgarh Khadi And Gram Uddyog Board Chhattisgarh Undertaking R-14 Anupam Nagar Raipur Chhattisgarh **---- Respondents**

For Petitioner	:	Mr. Anand Dadariya, Advocate
For Respondent/State	:	Ms. Sunita Jain, Panel Lawyer
For Respondents No.2 to 4	:	Mr. R.S. Patel, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****05/09/2017**

Heard.

1. At the outset, the ground of challenge raised by the petitioner against the order passed in appeal being a completely non speaking order, learned counsel for the respondents fairly concedes in view of legal position settled by this Court in the case of ***Soniram Dhruv Versus State of Madhya Pradesh and others***, (W.P.(S.)No.1367 of 2005) decided on 05.02.2010 that the petitioner's appeal

would be reconsidered and upon due consideration the application of mind, reasoned order would be passed.

2. This Court in the case of Soniram Dhruv (supra) clearly held that the exercise of power of appeal is not an empty formality. Where an appeal has preferred against the order of penalty, the authority is duty bound to apply its mind to the ground consider the appeal and then pass a speaking and reasoned order. This Court held thus :

“17. If the orders, passed by the Appellate Authority and other Authorities are scrutinized by applying aforesaid principle of law laid down keeping in view statutory requirement as to the manner of consideration of an appeal, it leads to inevitable conclusion that the order passed by the Appellate Authority does not contain any reason whatsoever and is mechanical affirmation without considering the appeal according to the statutory service rules muchless application of mind to the specific grounds raised by the petitioner in his appeal. Therefore, the orders passed by the Appellate Authority and other Higher Authorities affirming the order passed in appeal are unsustainable in law and liable to be set aside.”

3. In view of the above and fair submission made by learned counsel for the respondents, the impugned order is set aside and the matter is remanded to the Appellate Authority for due and proper consideration of appeal of the petitioner after affording him opportunity of hearing and decide the same in accordance with the law laid down by this Court in the case of Soniram Dhruv (supra).

4. The petition is accordingly allowed.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge