

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 1371 of 2011

R.K.Shukla S/o Late H.M.Shukla, aged about 51 years, R/o Agneya Nagar, Bilaspur (C.G.).

---Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Urban Administration, D.K.S. Bhavan, Raipur (C.G.).
2. Additional Collector, District Bilaspur.
3. Chief Executive Officer, Nagar Panchayat, Takhatpur, District Bilaspur (C.G.).

---Respondents

For petitioner	:	Shri Sunil Otvani, Advocate.
For respondents No.1 & 2/State	:	Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/08/2018

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 03/03/2011 which is an order of recovery passed by the respondent No.2 with a further order that in the event if the petitioner fails to deposit the amount by 30/03/2011, the respondents would be forced to initiate coercive method including lodging of F.I.R. against the petitioner.
2. The petitioner has been protected by this Court by an interim order granted on 25/03/2011.
3. The contention of the counsel for the petitioner is that, the alleged action which the petitioner has performed was while the petitioner was working as a Chief Municipal Officer of Nagar Panchayat, Takhatpur. He

submits that, before issuance of the impugned order, no opportunity of hearing has been granted to the petitioner. He further submits that, atleast a show cause notice could had been issued calling for an explanation from the petitioner before reaching to the conclusion that the petitioner prima-facie was guilty of having mis-appropriated the government funds.

4. The issue does not require much deliberation as it is by now well settled principle of law that, even if it be an order of recovery which in the instant case is of about more than Rs.10 Lakh which is a substantial amount is to be passed, the least that is expected from the respondents is to grant an opportunity of hearing to the delinquent employee/officer against whom the order is to be passed.

5. The petitioner has a right to know or has a right to put forth his defense before the competent authority to explain the circumstances under which he has discharged his duties which now is been termed to be a misconduct on his part.

6. Given the aforesaid facts and circumstances of the case, the impugned order to that extent is not sustainable and the same deserve to be and is accordingly set aside.

7. However, the right of the respondents stands reserved that if they intend to proceed against the petitioner for initiating recovery proceeding, they may pass a suitable order only after granting an opportunity of hearing to the petitioner.

8. The petitioner under such circumstances would also have the liberty of raising all the contentions that he has, to prove his innocence.

9. With the aforesaid observations, the Writ Petition stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit