

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6821 of 2007

Ashok Kumar Thakur S/o Jagat Singh Thakur, aged about 43 yrs,
Resident Of Village Kewtara Tahsil Saja District Durg CG Present
Address State Bank Colony Bemetara District Durg CG

--- Petitioner

Versus

1. Registrar Co-Operative Societies, Chhattisgarh, Raipur (CG)
2. Joint Registrar, Co-operative Societies Chhattisgarh, Raipur CG
3. The Deputy Registrar Co-operative Societies, Durg CG
4. District Cooperative Central Bank Maryadit, Durg Through Chief
Executive Officer In Front Of District Hospital, Durg District Durg CG

---- Respondents

For Petitioner	:	Mr. Sudhir Verma, Advocate
For Respondent/State	:	Mr. Chandresh Shrivastava, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/05/2018

Heard.

This petition, under Article 226 & 227 of the Constitution of India, is directed against the order dated 23.10.2007 passed by the Registrar Cooperative Society, by which, the petitioner's Second Appeal in a matter arising out of penalty in a departmental enquiry, has been dismissed.

2. The petitioner, at the relevant time was working as Manager in a Cooperative Bank. Series of allegations were leveled against the petitioner relating to financial irregularities, misappropriation of fund etc, which resulted in issuance of as many as four charge-sheets on 30.06.97, 22.10.97, 31.08.98 & 24.02.99. The enquiry on these four charge-sheets were instituted and continued simultaneously. Three enquiry reports dated 08.02.99, 16.08.99 & 13.12.99 were submitted. The petitioner was given show cause notice and

thereafter, the disciplinary authority imposed penalty of dismissal from service vide order dated 09.08.2000. The petitioner, thereafter raised a dispute under Section 55(2) before the Deputy Registrar who, vide order dated 31.12.2005, dismissed the case of the petitioner. Aggrieved by the said order, the petitioner preferred a first appeal before the Joint Registrar which was allowed vide order dated 30.03.2007. Aggrieved by this order, the Bank preferred second appeal before the Registrar who allowed the appeal setting aside the order passed by the First Appellate Authority and restoring the order passed by the Deputy Registrar.

3. Learned counsel for the petitioner argued that in the enquiry which was held against the petitioner, the petitioner was not afforded proper opportunity of hearing. It is further submitted that in respect of many charges, relevant records were not produced and further in respect of certain charges even the witnesses had not come yet those charges were found mechanically proved. Further submission is that as the original records were not produced, charges could not be held proved. The penalty has also been assailed as disproportionate to the gravity of charges against the petitioner.

4. Learned State counsel would submit that the Registrar, Joint Registrar and Deputy Registrar acted in quasi judicial capacity. Therefore, the State is not the contesting party but it is the Bank who had dismissed the petitioner after holding departmental enquiry.

5. From the three enquiry report which have been placed on record, it is found that against the petitioner, number of charge-sheets were issued. In the first enquiry report dated 08.02.99, as many as 9 charges were examined. In the second charge-sheet dated 28.12.99, 5 charges were examined and in the third charge-sheet dated 24.02.99, 9 charges were examined. The Deputy Registrar who decided the dispute raised by the petitioner has recorded in its order dated 31.12.05 that though in respect of some of the charges, original records were not produced but it has noticed that some of the charges were admitted by the petitioner and shortage amount of Rs.96,036/- was deposited. Similarly, in respect of another charge, defalcation of Rs.77,077/- was admitted but the amount was not deposited. The authority also took into consideration that out of Rs.12,030/- received only Rs.2,030/- was deposited in the cash book and remaining Rs.10,000/- was not deposited. In respect of another charge, it has been found that the receipt of Rs.15,000/- from one

Goukaran Sahu was not taken on cash receipt book and the said amount was misappropriated. Thus, the Deputy Registrar, holding proved those charges which proceeded on petitioner's admission, passed the order dismissing the claim and upholding order of termination.

6. The First Appellate Authority, however, swayed by allegation of non production of original records and that proper opportunity of hearing was not given, ignoring admission against certain charges set aside the order. The Second Appellate Authority has found that some of the amount which were misappropriated by the petitioner having been admitted by him.

7. After going through the order passed by the Appellate Authorities, particularly the order passed by the Deputy Registrar, this Court finds that though number of charges were leveled against the petitioner and several enquiries were held, some of the charges relating to misappropriation of fund were found proved on the basis of petitioner's own admission and petitioner also deposited those amounts.

8. In view of the above, when number of authorities at different level including first and second appellate authority have examined the case of the petitioner, this Court does not find any gross error of law or jurisdictional illegality to interfere at this stage.

9. The petition is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge