

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1825 of 2008**

Sita Ram Soni, S/o. Late D.R. Soni, Aged about 57 years, Presently posted as District Auditor, Office of Assistant Director, Department of Panchayat and Social Welfare, District Korba, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, through the Secretary, Tribal Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. Secretary, Department of Panchayat and Social Welfare, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
3. Collector, District Surguja, Ambikapur, Chhattisgarh
4. Project Administrator, Akikrith Adivasi Vikas Pariyojana-Paal, Ramanujganj, District Surguja Chhattisgarh
5. Chief Executive Officer, Janpad Panchayat Kusmi, District Surguja Chhattisgarh

----Respondents

For Petitioner	:	Mr. Amrito Das, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer
For Respondent No.5	:	Mr. Pawan Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****10/05/2018**

1. The challenge in the present writ petition is to the order dated 14.02.2007, whereby the petitioner who was working on the post of District Auditor was imposed with an order of recovery of an amount of Rs.38,875/- in respect of certain alleged substandard quality of constructions of stop-dam at Kusmi, District Surguja, Chhattisgarh.
2. The contention of the learned counsel for the petitioner is that before issuing the impugned order of recovery, no notice whatsoever has been served upon the petitioner. He submits that even an explanation was not called for from the petitioner while passing the impugned order. It was also the contention of the petitioner that no inquiry

whatsoever has been done by the respondents, much less even a preliminary investigation also has not been conducted and if at all any such inquiry has been conducted, the same would be behind the back of the petitioner as he has never been called upon before any of the inquiry authorities. It was also the contention of the counsel for the petitioner that even otherwise there is no basis available on record to establish as to how the respondents had reached to the conclusion that the petitioner was responsible for the loss to the extent of Rs.38,875/- and thus prayed for quashment of the same. The further contention of the petitioner was also that he was not posted at the relevant place when the stop-dam was constructed.

3. The counsel for the respondents on the contrary referring to Annexure R/1 submits that a show cause notice was in fact issued to the petitioner before issuance of the impugned order and therefore the opportunity of hearing part has been complied with and therefore the principles of natural justice also stands complied with in the present writ petition and prayed for the rejection of the petition.
4. A perusal of the record would show that in the impugned order itself the respondents have categorically held that the petitioner has not been served with a copy of the show cause notice, before the impugned order was passed. Moreover the entire order also reflects that no preliminary inquiry or a detailed departmental enquiry was conducted to reach to the conclusion that the alleged stop-dam at Kusmi constructed was of substandard quality.
5. Another aspect, which the petitioner raised is that, the petitioner had been posted at the relevant place much subsequent to the

construction of the stop-dam and that the said construction was not during the tenure when the petitioner was working as an incharge Chief Executive Officer, at Kusmi. This aspect also should have been inquired into by the authorities concerned. Having not done so, the impugned order deserves to be held to be one which has been passed firstly, without proper opportunity of hearing being given to the petitioner, secondly, without proper assessment of damages at the instance of the petitioner, and thirdly without verification of the fact as to whether the construction was during the tenure when the petitioner was posted at the relevant place.

6. For all these reasons, the impugned order Annexure P/1 so far as the petitioner is concerned, is not sustainable and the same deserves to be and is accordingly set-aside/quashed.
7. The writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge