

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1575 of 2018**

- Ramesh Bhattacharya S/o Late Jitendra Bhattacharya Aged About 57 Years Posted As Sub-Divisional Officer, Rural Engineering Services, Janpad Panchayat Bastar, District Bastar (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. Chief Executive Officer, Zila Panchayat, Uttar Bastar Kanker (Chhattisgarh)
3. Executive Engineer, Rural Engineering Services Jagdalpur, District Bastar Chhattisgarh

---- Respondents

For Petitioner	:	Shri Yogendra Pandey, Advocate
For Respondents-State	:	Shri Arun Sao, Dy. AG with Ms. Sunita Jain, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****21/02/2018**

1. Challenge in this petition is to the legality and validity of the order dated 03.01.2018 passed by the Chief Executive Officer, Zila Panchayat, Uttar Bastar Kanker (C.G.) whereby recovery of an amount of Rs.1,85,981/- has been directed to be made from the petitioner.
2. Learned counsel for the petitioner would submit that without any opportunity of hearing the order of recovery has been passed against the petitioner and no opportunity of hearing was afforded to the petitioner, therefore, the said order is liable to be quashed.

3. Per contra, learned State counsel opposes the same and submits that it is an appealable order. The appellate authority i.e. the Commissioner can always decide the same whether hearing was afforded to the petitioner or not.
4. Perused the petition, wherein specific averments have been made that neither any show-cause notice was given to the petitioner before passing such recovery order of Rs .1,85,981/- nor any hearing was given and the order also do not reflect that any notice was given to the petitioner before passing such recovery order. In view of this, it appears that there has been a breach of natural justice of hearing and no party can be condemned unheard. Accordingly, order dated 03.01.2018 is quashed. The Authority shall be at liberty to conduct an enquiry and pass suitable order after giving opportunity of hearing to the petitioner.
5. It is made clear that since the order is ex-parte, the respondents shall be at liberty to file recall of this order in case opportunity of hearing was given to the petitioner.
6. Accordingly, the writ petition stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu