

**HIGH COURT OF CHHATTISGARH, BILASPUR****WRIT PETITION (S) NO. 3419 OF 2011**

Shailesh Kumar Chandra S/o Shri J.L. Chandra RAO (Now At Present) Distributing Officer (Samvitaran Adhikari) Block Officer Marwahi Distt. Bilaspur (CG).

...**Petitioner(s)**

**Versus**

1. State Of Chhattisgarh through Principal Secretary, Mantralaya, DKS Bhawan, Raipur (CG).
2. The Collector, Collector Office Bilaspur (CG).
3. Chief Executive Officer Zila Panchayat Bilaspur (CG).
4. Deputy Director Agriculture Agriculture Department Bilaspur (CG).

...**Respondent(s)**

**WRIT PETITION (S) NO. 3420 OF 2011**

Ram Charan Sahu S/o Shri Lakhan Lal Sahu, H.D.O.(Now at present) Distributing Officer (Samvitaran Adhikari), Block Office Marwahi, Distt. Bilaspur (CG).

...**Petitioner(s)**

**Versus**

1. State Of Chhattisgarh through Principal Secretary, Mantralaya, DKS Bhawan, Raipur (CG).
2. The Collector, Collector Office Bilaspur (CG).
3. Chief Executive Officer Zila Panchayat Bilaspur (CG).
4. Deputy Director Horticulture, Horticulture Department Bilaspur (CG).

...**Respondent(s)**

**&**

**WRIT PETITION (S) NO. 5193 OF 2011**

Mahendra Kumar Jain S/o Sukh Lal Jain, Sub Engineer (Now at present) Office Of Executive Engineer Mahanadi Project, Disnet Division No.3, Tilda, Bilaspur, Distributing Officer (Samvitaran Adhikari), Water Resources Deptt. Pendra Road, Distt. Bilaspur (CG).

...**Petitioner(s)**

**Versus**

1. State Of Chhattisgarh through Principal Secretary, Mantralaya, DKS Bhawan, Raipur (CG).
2. The Collector, Collector Office Bilaspur (CG).
3. Chief Executive Officer Zila Panchayat Bilaspur (CG).
4. Executive Engineer, Water Resources Division, Pendra Road, Bilaspur (CG).

...**Respondent(s)**

---

|                      |   |                                     |
|----------------------|---|-------------------------------------|
| For Petitioners      | : | Shri P.K. Tulsyan, Advocate.        |
| For Respondent-State | : | Shri Mazid Ali, Dy. Govt. Advocate. |

---

**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**02.07.2018**

1. Since the impugned order being common and the contention of the petitioners and grounds of challenge also being identical, these three writ petitions are proceeded to be decided by this common order.
2. The petitioner are working on the posts of Rural Agriculture Extension Officer, Horticulture Extension Officer and Sub Engineer in the Water Resources Department of the State Govt. The allegation against each of the petitioners is that, in the course of execution of certain work under drought relief programme, there has been large scale irregularities committed by these petitioners and therefore order impugned dated 04.12.2010 (Annexure P/1) have been passed after conducting preliminary enquiry whereby certain amount have been ordered to be recovered from each of the petitioners. It is a common order against all the petitioners herein.
3. The contention of the petitioners is that the order impugned so far as petitioners are concerned is totally unsustainable as there is no basis whatsoever with the respondents for issuance of the impugned order. It is a case where the respondents have not conducted any enquiry nor have they properly appreciated the reply to the show cause notice which the petitioners had given before issuance of the impugned order. According to the petitioners, the respondents were required to conduct an enquiry wherein the petitioners also would have got opportunity to explain so far as their innocence is

concerned, if any, before the impugned order is passed. He further submits that the impugned order shows it to have been issued against 9 persons, however, there is no finding whatsoever available with the respondents so far as the specific role that each of the petitioners have played in the alleged transaction/irregularity.

4. It is further contended by the petitioners that the inquiry report prepared by the respondents by a team of four Executive Engineers do not reflect any overt act or misconduct to have been committed by any of the petitioners. Thus prayed for setting aside of the impugned order of recovery.
5. The State counsel, on the contrary opposing the petition submits that it is a case where during the course of the implementation of drought relief programme, large scale irregularities were committed by the petitioners so far as the payments being made and total numbers of workers as reflected in the muster roll infact engaged. Even otherwise those persons who were engaged were not paid to the extent of the amounts reflected in the records. It was further contended that a committee consisting of four senior level Executive Engineers conducted an enquiry and gave a report holding that these officers were responsible for the loss caused to the state exchequer. Therefore, the impugned order Annexure P/1 was issued and as such there is no illegality committed by the respondents while issuing the impugned order.
6. Perusal of records would show that all the petitioners were served with the show cause notice issued to them on 13.04.2010 in respect of the alleged misconduct of irregularities being committed in the

course of implementation of the drought relief programme. The petitioners immediately submitted a detailed reply denying the contents of the notice. It was further contended in their reply that they were not responsible for the preparation of muster roll. However, the respondents therein passed the impugned order which is an order of recovery.

7. Another aspect which is revealed from the reply of the State is the document Annexure R/1 which is alleged inquiry report prepared by the four senior officers working with the State Govt. On perusal of said report it reveals that the said inquiry report is totally silent of the role played by each of the petitioners. Neither is the inquiry report in any manner dealing with those specific allegations so far as the petitioners are concerned. The inquiry report only contains general and omnibus nature of irregularities and the loss suffered without pin pointing the individual officers who were responsible in the alleged irregularities at different stages.
8. Given the fact that there is no basis available with the respondents so far as the alleged irregularities to have been committed by each of the petitioners, the finding of guilt against the petitioners would be bad in law as there is no finding against each of them, yet they have been inflicted with an order of recovery which would be detrimental to their career prospects at a later stage. This court going through the inquiry report also find that the inquiry report, apart from not reflecting the specific role of each of the petitioners also does not reflect the name of the any of the petitioners in respect of any works executed during the relevant point of time which has caused loss.

The entire inquiry report is omnibus and general in nature without specifically casting any specific charge or irregularity to have been committed by a specific person.

9. Given the aforesaid facts and circumstances of the case, the inquiry report which is made available as Annexure R/1 by itself does not seem to be sufficient document with which the order of recovery could have been passed against the petitioners. There is no finding whatsoever against the petitioners available with the State counsel with which they could be implicated in the alleged irregularities.
10. The impugned order dated 04.12.2010 (Annexure P/1) so far as petitioners are concerned, the same being not sustainable deserves to be and is hereby set aside. Consequence to follow. However, the right of the State Govt. stands reserved to re-enquire the matter in accordance with law after granting an opportunity of hearing to each of the petitioners and then pass appropriate orders.
11. The writ petitions accordingly with the aforesaid observation stand allowed.

**Sd/-**  
(P. Sam Koshy)  
**Judge**