

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 596 of 2018**

(Arising out of order dated 16.05.2018 passed by learned Single Judge in Writ Petition (S) No. 6821 of 2007)

- Ashok Kumar Thakur, S/o Jagat Singh Thakur, aged about 54 years, R/o Village Kewtara, Tahsil Saja, District Durg (C.G.)

(Address mentioned in the writ petition has been changed)

---- Appellant

Versus

- Registrar, Co-operative Societies Chhattisgarh, Raipur (C.G.)
- Joint Registrar, Co-operative Societies, Chhattisgarh, Raipur (C.G.)
- The Deputy Registrar Co-operative Societies Durg (C.G.)
- District Co-operative Central Bank Maryadit, Durg, through Chief Executive Officer, in front of District Hospital, Durg, District Durg (C.G.)

---- Respondents

For Appellant	:	Shri Sudhir Verma, Advocate.
For Respondents	:	Shri Yashwant Singh Thakur, Additional Advocate General.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Justice Prashant Kumar Mishra

Order on Board

Per Ajay Kumar Tripathi, Chief Justice

30.07.2018

- Writ application of the present Appellant was dismissed by the learned Single Judge vide order dated 16.05.2018. The relief sought for in the writ application was against the order of the Registrar, Co-operative Society, who dismissed the second appeal in the matter arising out of penalty of dismissal imposed in departmental enquiries on allegations of financial irregularities and misappropriation of funds of a Co-operative Bank.
- Four charge sheets came to be issued against the Appellant for various allegations of financial irregularities and misappropriation of funds. The charge sheets are dated 30.06.1997, 22.10.1997, 31.08.1998 and 24.02.1999. The

enquiries in the four charge sheets were held more or less simultaneously. Three enquiry reports thereafter emerged on 08.02.1999, 16.08.1999 and 13.12.1999. Based on the findings, show cause was issued to the Appellant and penalty of dismissal was imposed by the disciplinary authority.

3. Not being satisfied with the said decision, an appeal was preferred under Section 55(2) of the Co-operative Societies Act, 1960 before the Deputy Registrar who did not find any merit in the said appeal and dismissed the case on 31.12.2005. Against that order, first appeal preferred before the Joint Registrar who allowed the appeal vide his order dated 30.03.2007. This time, the Bank, not being happy with the decision, preferred an appeal before the Registrar of Co-operative Societies who in turn restored the original order and set aside the order passed by the first Appellate authority and, therefore, writ was filed.
4. The primary submission on behalf of the counsel for the Appellant finding fault with the decision of the authorities including the learned Single Judge is that in absence of the original records, how could a fair enquiry be held and finding of guilt be imposed.
5. We are not here to investigate as to why the original records went missing if at all and who were responsible thereof. But, mere absence of original record, which have not really been specified by the counsel for the Appellant, cannot mean that they are not ancillary evidence which was available which could establish the guilt of financial irregularities including misappropriation.
6. The findings have come that the Appellant had accepted some of the defalcations and to earn a reprieve, he had deposited the amounts. But, then that was not enough as a lesson for the Appellant because series of other defalcations and misappropriations kept happening which compelled the authority to hold the enquiries.

7. Besides the above submission of the counsel for the Appellant, nothing has been pointed out about the validity of the enquiry, coupled with the fact that some of the charges of misappropriation has been accepted by the Appellant himself before the enquiry officer. An employee of the Bank with such conduct and behavior cannot be shown mercy and the loss of trust and faith in dealing with financial matters of the Bank is paramount.
8. The findings are concurrent in nature, therefore, the ground which has been urged by the Appellant to overcome the rigors of law may not be available to him.
9. The learned Single Judge dealing with the matter in entirety refused to interfere with the orders under challenge. We too are satisfied that nothing significant as such is pointed out with regard to the enquiries except the so called original records which have not been identified or pinpointed or as to how it prejudiced his case.
10. The appeal, therefore, has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Prashant Kumar Mishra)
Judge