HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 78 of 2017

Rajesh Bagh S/o Late Shri Hira Bagh, Aged About 57 Years By Occupation Government Servant, Presently Posted Adn Working As Agriculture Development Officer, Narayanapur At District Narayanpur Chhattisgarh, R/o Gouri Nagar, Ward No.14, Police Station Rajnandgaon, District Rajnandgaon Chhattisgarh. **--- Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Department of Home Police, Mahanadi Bhawan, Capital Complex, Mantralaya, Naya Raipur, Chhattisgarh.

2. The Superintendent of Police, Anti Corruption Bureau, Raipur, District Raipur, Chhattisgarh.

3. The Additional Director of Income Tax Investigation, Central Revenue Building, Civil Lines, Raipur, Chhattisgarh.

4. The Joint Director, Department of Agriculture, Bastar Division, Jagdalpur, District : Bastar Chhattisgarh

--- Respondents

For the Petitioner	:	Mr. D. K. Gwalre, Advocate.
For the State	:	Mr. Ashish Shukla, Dy. A.G.
For R-3 & R-4	:	Mrs. Naushina Ali and Mr. Amit Choudhary, Advocates.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03.04.2018

1. The instant petition is to quash the FIR dated 27.10.2014 bearing No.45/2014 whereby the offence was registered against the appellant under Section 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988.

2. During the course of investigation, the return has been filed on behalf of the State alongwith document (Annexure R-1) dated 17.08.2017 wherein it is stated that no offence was found to have been committed by the Petitioner u/s 13(1)(e)

and 13(2) of the Prevention of Corruption Act and the closure report has been prepared.

3. Learned counsel for the petitioner would submit that the the petitioner was working as Agricultural Development Officer and from his possession Rs.31,51,000/- was seized by the Anti Corruption Bureau whereby the FIR was registered and the seizure was made. Subsequently the amount was handed over to the Income Tax Department and the income tax department also found that the cash belonged to the Office of Assistant Soil Conservation Officer, Kondagaon, therefore, the amount of Rs.31,50,000/- was conclusively held to be the amount of the said office and not that of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is going to retire, therefore, the office of the petitioner is pressing hard and unless the amount so seized by the ACB is returned by the Income Tax Department, it would not be possible to return the same to the concerned office and the account may be settled only after handing over the said sum.

5. A perusal of the reply filed by the State and the document annexed thereto vide Annexure R-1 Dated 17.8.2017 shows that the State has categorically given a finding that no offence is being made out against the petitioner under section 13(1)(3) and 13(2) of the P.C. Act and the recommendation has been made for closure of the case. The return of the income tax department would show that it was found by the department after enquiry that the amount so seized belonged to the office of the Assistant Soil Conservation officer, Kondagaon. However, since the amount has been kept in custody of the Principal

Commissioner of Income Tax, the same can be returned by him only. The document would show that on 04th September, 2014 the petitioner has already made a representation to the Commissioner, Raipur to return the amount of Rs.31,50,000/- .

6. In view of the above facts and circumstances of the case, it is clear that the State has come out with the return that no offence has been committed and the income tax department admitted the fact that the amount so seized belonged to the department of the State and no impediment exists to order for such return of amount. Since the seizure was made from the petitioner and taking into consideration fact that earlier representation made by the petitioner was of the year 2014 and considerable time has elapsed, it would be appropriate to dispose of this writ petition with an observation/direction that the petitioner if so advised may make a fresh representation for return of the amount of Rs.31,50,000/- along-with certified copy of this order within a period of two weeks and in the event of such representation being filed, the Principal Commissioner, Income Tax, shall consider and decide the same within a further period of 30 days for return of the aforesaid amount to the entitled person.

7. Accordingly, this petition stands disposed of.

Sd/-
GOUTAM BHADURI
JUDGE

Rao