

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 867 of 2019

Kanhaiya Singh Markam S/o Late Shri Anand Singh Markam, Aged About 70 Years, Retired Head Master (M.S.), Government Middle School Sirki, Block - Pali, District - Korba Chhattisgarh, At Present Residing At Village Ranjana, Police Station - Dipka, Tahsil Katghora, District - Korba, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through - Secretary, School Education Department, Mantralaya Mahanadi Bhawan, Naya Raipur, District - Raipur Chhattisgarh.
2. The District Education Officer, District - Korba Chhattisgarh.
3. The Collector Korba, District - Korba Chhattisgarh.
4. The Sub Divisional Officer (Revenue) Katghora, District - Korba Chhattisgarh.
5. The Block Resource Co-Ordinator, Rajiv Gandhi Shiksha Mission, Pali District - Korba, Chhattisgarh.

---Respondents

For petitioner	:	Shri A.S.Rajput, Advocate.
For resp.No.5	:	Shri A.S.Kachhawaha, Advocate.
For State	:	Ms. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/02/2019

1. In the instant Writ Petition, the petitioner seems to be aggrieved of the correspondence dated 29/01/2019 passed by the Sub Divisional Officer (Revenue), Katghora directing the petitioner to appear before the officer and depositing an amount of Rs. 1,99,723/-. The said alleged amount to be recovered from the petitioner was on account of certain incomplete construction of the school building for the period 2009-2010.

2. The contention of the counsel for the petitioner is that, during the relevant period, he was working there as Headmaster of the Government Middle School, Sikri, Block Pali, District Korba. According to him, the construction activities was not under the control and supervision of the Headmaster or for that matter the Teachers as is evident from Annexure-P/3 dated 16/11/2009 issued by the District Project Co-ordinator under the Rajiv Gandhi Shiksha Mission, Korba which clearly held that the teaching staff would not be involved in the construction activities.

3. This aspect has got further clarified from the minutes of the meeting held by the Jan Bhagidari Samiti on 25/11/2009 which again reflects that the construction activities was supposed to be got done by the Jan Bhagidari Samiti.

4. It is further the contention of the counsel for the petitioner that, before reaching to the conclusion that the petitioner is liable to make good the loss suffered, no opportunity of defense has been granted to the petitioner and the said order has been passed behind the back of the petitioner without being able to justify his case.

5. Given the nature of pleadings that the petitioner has made and also considering the correspondence - Annexures - P/3 as well as P/4 dated 16/11/2009 and 25/11/2009 respectively this Court is of the opinion that, the action on part of the respondents in initiating the recovery proceedings does not seem to be proper, legal and justified.

6. If at all if the petitioner was in any manner directly involved in the construction activities or was directly responsible for the non-completion of construction activities and in the process causing loss, the authorities ought to have conducted some sort of an enquiry calling upon the petitioner also to justify his stand and thereafter could have taken a decision.

7. Reserving the right of the respondents to act accordingly in case if they find the petitioner to be responsible for the loss so caused, the impugned notice of recovery as on date is not justified and the same deserve to be and is accordingly set-aside/quashed.

8. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit