

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2351 of 2019

Madhusudan Yadav S/o Late Tekram Yadav, Aged About 57 Years,
Posted As Field Assistant, Chhattisgarh Cooperative Marketing
Federation, Presently Posted At Office Of The District- Marketing
Officer, Kawardha, District- Kabirdhaam, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of
Cooperative Societies, Mahanadi Bhawan, Atal Nagar, Raipur, District-
Raipur, Chhattisgarh
2. Managing Director, Chhattisgarh State Marketing Federation, 880, Civil
Lines, Raipur, District- Raipur, Chhattisgarh
3. The Secretary, Chhattisgarh State Marketing Federation, 880, Civil
Lines, Raipur, District- Raipur, Chhattisgarh
4. The Manager (Establishment), Chhattisgarh State Marketing Federation,
880, Civil Lines, Raipur, District- Raipur, Chhattisgarh
5. District Marketing Officer, MARKFED, Kawardha, District- Kabirdham,
Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vikas Dubey, Advocate
For Respondents	:	Mr. Rahul Mishra, Dy. G.A., Mr. Prafull N. Bharat and Mr. Keshav Dewangan, Advocates

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/03/2019

The challenge in the present Writ Petition is the order dated 18.01.2019
passed by the Respondent No.3 by which the stoppage of two increments of
the Petitioner with cumulative effect has been ordered. In addition there was

also an order of recovery of amount made against the loss sustained by the Respondent corporation.

2. At this juncture, it has been informed that against the impugned order the Petitioner has preferred an appeal before the Managing Director who is appellate authority and the Managing Director in turn has seized of the appeal.

3. The limited contention of the Petitioner is that though the appeal has been seized by the Managing Director and it is in the process of being heard, the Respondent authorities have initiated steps for recovering the amount of loss which has been alleged to have been caused at the hands of the present Petitioner.

4. Learned Counsel for the Petitioner submits that while appeal is pending, the Respondent authorities ought not to have taken steps for recovery. At least they should have waited till appeal is finally decided. The appellate authority would have to consider the entire facts and submission in the appeal and then would reach to a conclusion whether the order of punishment is justified or not. Only then should the Respondent authorities proceeded further with the recovery.

5. The said submission of the Petitioner seems to be a fair proposal. Once when there is an order of punishment having been passed and which is appealable, an appeal having preferred then in the opinion of this Court, there is no reason why the Respondents authorities to immediately act on the order of punishment. Once when the appeal has been indisputably seized by the Appellate Authority, the Appellate Authority is obliged to decide the appeal within a stipulated or a reasonable period. If he has not decided within the stipulated period and at the same time initiating to recover the alleged amount of damage from the Petitioner, then the very purpose of filing an appeal gets frustrated.

6. In view of the same, ends of justice would meet if the present Petition is disposed of with a direction to the Appellate Authority / Respondent No.2 to take decision on the appeal of the Petitioner which is pending before him preferably within a period of 3 months from today. It is further ordered that till the Appellate Authority decides the appeal, the Respondent authorities shall not act upon the impugned order so far as the recovery is concerned.

7. With the aforesaid observation the present Writ Petition stands disposed off.

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

Khatai