

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4773 of 2019**

Kanta Kumar Sahu S/o Shri Baburam Sahu, Aged About 32 Years, R/o
Gram Post - Kishungarh, Police Station And Tahsil Pandariya, District
Kabirdham, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Co - Operative
Department, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. The Chief Executive Officer, Jila Sahakari Kendriya Bank Maryadit,
Bilaspur, District Bilaspur, Chhattisgarh
3. The Branch Manager, Jila Sahakari Kendriya Bank Maryadit, Pendra
Road Branch, Pendra Road, District Bilaspur, Chhattisgarh
4. The Joint Registrar, Co-Operative Department, Raipur Division,
Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Keshav Dewangan, Advocate.
For State	:	Mr. Arvind Dubey, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****01.07.2019**

1. With the consent of the parties the matter was heard finally at motion
stage.
2. The challenge in the present writ petition is to the order dated

31.05.2019 passed by respondent no.4, the Joint Registrar, Co-operative Department, Raipur.

3. The case of the petitioner is that the petitioner was appointed on the post of Peon vide order dated 17.11.2014 and he gave joining on 19.11.2014 in the Co-operative Department at Branch Lormi. In due course of time, on completion of probation period, the petitioner was confirmed in the department on 08.03.2018. Later on, on 01.09.2018 the services of the petitioner stood terminated on the ground that the petitioner had been wrongly granted appointment as the entire recruitment itself was without proper sanction and authority of the higher authority in the department. The petitioner immediately challenged the same before this Court vide WPS No. 6310/2018 which came up for hearing on 24.09.2018. When the writ petition came up for hearing, it was brought to the notice of this Court that an identical matter i.e. WPS No. 4677/2015 had also been filed on the same ground and this Court on 20.04.2018 had disposed of the writ petition. While disposing of the said writ petition, this Court had made the following observations:

“2. After arguing for sometime, learned counsel for the petitioners, seeks permission of this Court to withdraw these petitions with liberty to move duly constituted dispute before the jurisdictional Registrar under Section 55(2) of the C.G. Cooperative Societies Act, 1960.

3. Learned State counsel would inform that as per the Notification issued by the Registrar, the term “Registrar” occurring in Section 55(2) would include the office of Joint Registrar or Deputy Registrar.

4. Since the petitioners have been bonafide litigating

before this Court and thereafter, before the State Cooperative Tribunal, upon grant of liberty by this Court, if the petitioners raise dispute under Section 55 (2), the concerned Registrar shall entertain the dispute on merits without raising the plea of limitation.

5. Accordingly, the writ petitions are dismissed, as withdrawn with the aforesaid liberty granted in favour of the petitioners.

6. The petitioners apprehend that the order of termination passed against the petitioners having its genesis in the enquiry report submitted by a team of Registrars, which in turn includes Additional Registrar or Joint Registrar, the persons, who were involved in the process of earlier enquiry, may not adjudicate the dispute with an open mind.

7. If the jurisdictional Deputy Registrar, before whom, the dispute would be raised by the petitioners pursuant to the termination order, was in any manner a party to the earlier enquiry, the petitioner would be at liberty to move an application before the

Registrar, Cooperative Societies, Chhattisgarh for transferring the dispute to any other Deputy Registrar or Joint Registrar in the State, who was not party to the earlier enquiry.

8. In such eventuality, the Registrar, Cooperative Societies, Chhattisgarh, shall pass necessary orders to transfer the dispute to any other Deputy Registrar or Joint Registrar, who was not a party in the earlier enquiry.”

4. Taking the order passed in WPS No. 4677/15, this Court had disposed of the writ petition i.e. WPS No. 6310/18 on 24.09.2018 in the light of the aforesaid order passed in WPS No. 4677/15 and directed the competent authority under the Act to decide the matter.

Subsequently, respondent no.4, on the petitioner raising a dispute under Section 55 (2) of the Co-operative Societies Act, has rejected the application on the ground of limitation vide impugned order dated 31.05.2019. It is this order which is under challenge.

5. The sole contention of the counsel for the petitioner is that when this Court had allowed the writ petition i.e. WPS No. 4677/2015, it was specifically directed that the Registrar would entertain the dispute on merits without raising the plea of limitation. This by itself means that the question of limitation would not arise in the case of the petitioner. Thus, the respondents have overlooked the order passed by this Court and have decided the dispute on the ground of limitation.
6. State counsel, however, justifying the impugned order submits that the matter had been raised before the authority at a belated stage and therefore, the authority concerned has rightly rejected the same and it does not warrant any interference.
7. Having heard the contentions put forth on either side and on perusal of the record what is undisputed is that the petition which the petitioner had filed i.e. WPS No. 6310/2018 was disposed of by this Court on 24.09.2018 in the light of the order passed by this Court in WPS No. 4677/2015 on 20.04.2018. In the said order this Court had specifically condoned the delay, if any and had directed the Registrar to entertain the dispute and to decide the same on merits. This Court does not find any strong case made out by respondent no.4 for entertaining the dispute on the aspect of limitation and rejecting the same.
8. Once when this Court had directed the authorities to decide the

dispute ignoring the aspect of limitation, there was no occasion for the Registrar to further go into the aspect of limitation so far as the petitioner is concerned. The order dated 31.05.2019 thus is not sustainable and the same stands set aside/quashed. The matter is remitted back to respondent no.4 to decide the dispute on merits ignoring the aspect of limitation, if any, as has been directed by this Court on 24.09.2018 in WPS No. 6310/18.

9. The writ petition accordingly stands disposed of.

10. Considering the nature of dispute as has been earlier directed it is expected that respondent no.4 shall decide the dispute at the earliest.

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