

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.618 of 2015

- Jila Sahkari Kendriya Bank Maryadit Through The Chief Executive Officer, Jila Sahkari Kendriya Bank Maryadit Ambikapur, District Sarguja, Chhattisgarh

---- Petitioner

Versus

1. Manitor Ram Kushwaha S/o Late Devi Dayal Kushwaha, Retired Samiti Sewak, Jila Sahkari Kendriya Bank Maryadit, Ambikapur, District Sarguja, Chhattisgarh, R/o Village Bakalo, Post Kajri, Darima Road, Ambikapur, District Sarguja, Chhattisgarh
2. Joint Registrar, Cooperative Societies, Sarguja Division, Ambikapur, Chhattisgarh
3. Deputy Registrar, Cooperative Societies, Ambikapur, District Sarguja, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate.
For respondent No.1	:	Ms. Prachi Singh on behalf of Mr. A.N. Pandey, Advocate.
For respondent No.2 & 3	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11/02/2020

1. This petition has been brought being aggrieved by the order dated 22.12.2014 passed by the C.G. State Co-operative Tribunal, Bilaspur, C.G. by dismissing the appeal filed by the petitioner.
2. The history of the case is this that respondent No.1 was appointed as Samiti Sewak by the petitioner in November 1969. The respondent No.1 was removed from his services by the order of the petitioner dated 07.11.2001. The respondent No.1 challenged that order in the Court of

Sub-Registrar Co-operative Societies, Ambikapur under Section 55(2) of C.G. Co-operative Societies Act, 1960. The appeal was allowed on 28.03.2012 by which the order dated 07.11.2001 of the petitioner removing the respondent No.1 from service was set aside. The petitioner then challenged this order before the Court of Joint Registrar Cooperative Societies, Surguja, Division- Ambikapur. This appeal was dismissed vide order dated 16.07.2014. The appeal preferred against this order has been disposed off by the learned Tribunal by passing the impugned order dated 22.12.2014 and has dismissed the same. Hence, this petition.

3. Learned counsel for the petitioners submits that departmental proceeding on the charge of embezzlement resulted not proved against the respondent No.1 which has not at all been appreciated by the Courts below, therefore, no prejudice was ever caused to the respondent No.1 and there was no such ground available that the principle of natural justice was not followed. Therefore, the impugned order and all the orders of the authorities below are erroneous, illegal and arbitrary. Therefore, the petition may be allowed and relief may be granted to the petitioner.
4. Learned counsel for respondents No.1 opposes the submissions and submits that no error has been committed by the Courts below, therefore, it is prayed that this petition may be dismissed.
5. Learned State counsel appearing for respondent No.2 and 3 has made formal objections.
6. Heard learned counsel for the parties and also perused the documents present.
7. On perusal of the documents filed along with the petition, it is found that

in the departmental proceeding against the respondent No.1, he did not give any appearance and did not submit any reply. On this basis, it was held proved that in the departmental inquiry, the respondent No.1 is responsible for the embezzlement and it may be so that the respondent No.1 was afforded with opportunity of hearing which he did not avail, therefore, it cannot be said that the principle of natural justice was not followed. But the glaring defect in the inquiry is reflected in this manner that not a single witness was examined by the Inquiry Officer to support the charges against the respondent No.1. Therefore, the report was given only on the basis of charge and not on the basis of any evidence present in the inquiry proceeding. Hence, it cannot be said that the report so prepared by the Inquiry Officer was in accordance with the law and rules, therefore, it is held that the Sub-Registrar has committed no error in passing the order dated 28.03.2012 by which the order of removal from service against the respondent No.1 was set aside and similarly neither the Joint Registrar nor the Tribunal has committed any error. Hence, this petition is without any substance which is dismissed and disposed off at motion stage.

8. Accordingly, this petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge