

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5640 of 2019**

Sunanda Garad, Aged About 62 Years Wd/o Late Shri Vaman Rao Garad
R/o House No. G-11, Moti Nagar, In Front Of Sharda Petrol Pump,
Boriyakhurd, Raipur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through Its Secretary, Department Of Forest
Mahandi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh.
2. Chief Conservator Of Forest, Ex-Office, Chief General Manager Raipur,
Circle, District- Raipur, Chhattisgarh.
3. Managing Director, Chhattisgarh Rajya Laghu Vanupaj Sahakari Sangh
Maryadit, Van Dhan Bhawan, Sector 24, Atal Nagar- Raipur, Chhattisgarh.
4. Director Accounts Treasury And Pension District- Gariyaband, Chhattisgarh.
5. Director, Accounts Treasury And Pension District- Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri Vinay Pandey, Advocate.
For State	:	Smt. Richa Shukla, Dy.G.A.
For respondents No.2 & 3	:	Shri Syed Majid Ali, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

26/02/2020

Heard.

1. Instant petition is against the recovery order made Annexure P-1 dated
3/06/2019 whereby amount of Rs.3,69,354/- has been recovered from the
petitioner who is widow of deceased Vaman Rao Garad who died on
23/06/2014. It is contended that after five years of the death of Vaman Rao
Garad recovery has been made from the widow to the extent of

Rs.3,69,354/-. It is further contended that apart from the aforesaid amount other retiral dues have been finalized. Learned counsel refers to case law **AIR 2017 SC 4072** in between **State of Punjab & ors. Vs. Senior Vocational Staff Masters Association & ors.** and would submit that recovery was made after five years of the date of death of the Vaman Rao Garad and that too even without giving any opportunity of hearing to the petitioner who is the beneficiary, therefore rules of natural justice were not followed. He would submit that only the allegation of excess payment in the salary have been made but how it has been arrived at nothing has been substantiated and unilateral recovery has been made. It is further submitted that there is no allegation that by any misappropriation the amount has been paid whereas actual recovery which has been made it is completely illegal and cannot be sustained.

2. Learned counsel for the respondents opposes the argument and submits that the petitioner has an alternate remedy of raising a dispute under Section 55 of the Cooperative Societies Act.
3. Be that as it may, prima facie reply and the documents filed alongwith the petition do not substantiate the fact that Annexure P-1 was issued after due enquiry and under what ground particular amount was quantified. Further recovery has been made after five years of the death of deceased Vaman Rao Garad and no documents are on record to show that any opportunity of hearing to the petitioner was given. Under the circumstances, since no opportunity of hearing was given and recovery has civil consequence, rules of *audi alteram partem* were not followed. Annexure P-1 dated 3/06/2019 whereby amount of Rs.3,69,354/- has been sought to be recovered appears

to be illegal. In a result, Annexure P-1 dated 3/06/2019 is set aside. The respondents are directed to return amount of Rs.3,69,354/- to the petitioner alongwith interest of 6 % within a period of 90 days from the date of receipt of this order.

4. With such observation, the petition stands disposed of.

Sd/-
Goutam Bhaduri
Judge