

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4807 of 2020**

1. Shivram Yadav S/o Shri Phiranta Yadav, Aged About 63 Years Retired Field Assistant, Chhattisgarh State Co-Operative Marketing Federation, R/o Opposite Vishnu Petrol Pump, Balodabazar Road, Palari, District Balodabazar Bhatapara Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Co-Operative Societies, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh
2. Managing Director, Chhattisgarh State Marketing Nava Raipur Atal Nagar, Raipur District Raipur Chhattisgarh
3. The Secretary, Chhattisgarh State Marketing Nava Raipur Atal Nagar, Raipur District Raipur Chhattisgarh.
4. The Dy. Chief Account Officer, Chhattisgarh State Marketing Nava Raipur Atal Nagar, Raipur District Raipur Chhattisgarh.

---- Respondents

For Petitioner : Shri Vikas Dubey, Advocate.

For State : Shri Jitendra Pali, Dy. A.G.

For the Resp. No. 2, 3 & 4 : Shri Rajat Agrawal under instruction of Shri S.C. Verma, A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16.12.2020**

1. The challenge in the present Writ Petition is the order dated 03.03.2017 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 off 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. The writ petition accordingly stands disposed of.

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

Jyotijha