

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.5105 of 2010**

Prabhu Dayal Sahu, aged about 48 years, S/o Late Guman Singh Sahu, Terminated Assistant Samity Prabandhak, Sewa Sahkari Samiti Maryadit Khurhshipar, Tah-Dongergaon, Distt.-Rajnandgaon (CG)

----- **Petitioner**

Versus

1. State of Chhattisgarh, through its Secretary, Department of Co-operative, Mantralaya, D.K.S. Bhavan, Raipur (CG)
2. Additional Registrar Co-operative Societies, Chhattisgarh, Off.- Vevekanand Complex Pension Bada Raipur (CG)
3. Joint Registrar Co-operative Societies, Off.- Vevekanand Complex Pension Bada Raipur (CG)
4. Assistant Registrar Co-operative Societies, Rajnandgaon, Off.-Collectorate Premises, Rajnandgaon (CG)
5. Samity Prabandhak, Sewa Sahkari Samiti Maryadit Khurhshipar, Tah-Dongergaon, Distt.-Rajnandgaon (CG)

----- **Respondents**

For Petitioner : Mr.Rakesh Thakur, Advocate
 For Res.No.1 to 4/State: Mr.Soumya Rai, P.L.
 For Respondent No.5 : None present

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

10.8.2021

1. Proceedings of this matter has been taken-up through video conferencing.
2. The petitioner herein calls in question legality, validity and correctness of the order dated 5.4.2010 (Annexure P-10) passed by the State Government, whereby the State Government in exercise of his revisional jurisdiction set-aside the order dated

12.9.2008 (Annexure P-9) passed by the Additional Registrar, Co-operative Societies/Second Appellate Authority by which the Second Appellate Authority has affirmed the order of the first appellate authority dated 31.12.2007.

- 3.** Services of the petitioner on the post of Assistant Samiti Manager were terminated on 4.10.2004, against which he raised a dispute under Section 55(2) of the Chhattisgarh Co-operative Societies Act, 1960 (hereinafter called as 'Act of 1960'), which was dismissed by the Assistant Registrar, Co-operative Societies, Rajnandgaon on 25.7.2005, against which, the petitioner preferred first appeal before the Joint Registrar, Co-operative Societies/First Appellate Authority. The first appellate authority by its order dated 31.12.2007 (Annexure P-8) held that no evidence has been adduced against the petitioner and no enquiry has been done before terminating his services and the enquiry officer has not held him fully responsible for misconduct and accordingly, allowed the appeal and set-aside the order of the Assistant Registrar, Co-operative Societies dated 26.7.2005, against which respondent No.5 preferred an appeal before the Additional Registrar, Co-operative Societies. The Additional Registrar, Co-operative Societies by its

order dated 12.9.2008 (Annexure P-9) dismissed the appeal affirming the order passed by the first appellate authority dated 31.12.2007, against which, respondent No.5 again preferred revision before the State Government. The State Government by the impugned order dated 5.4.2010 (Annexure P-1) allowed the revision, which has been called in question by the petitioner in this writ petition.

4. Mr. Rakesh Thakur, learned counsel for the petitioner, would submit that by unreasoned and non-speaking order the revisional authority has allowed the revision preferred by respondent No.5, which is unsustainable and bad in law.
5. On the other hand, Mr. Soumya Rai, learned Panel Lawyer for respondents No.1 to 4/State, would support the impugned order.
6. None present for respondent No.5, though served.
7. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
8. The first appellate authority has allowed the appeal of the petitioner on the ground that enquiry was not conducted in accordance with rules and no reasonable opportunity of hearing was granted to the petitioner

and held that the petitioner was even not fully guilty of said misconduct, which the second appeal appellate authority has also affirmed in appeal, but revisional authority merely relying upon the notice dated 14.7.2004 and statement of the petitioner has been recorded on 28.7.2004 allowed the revision.

9. A careful perusal of the record would show that the petitioner was not given an opportunity to cross-examine the witnesses examined by enquiry officer and on that basis, the first appellate authority has recorded a finding that enquiry was not conducted as per rules and the petitioner was not afforded a reasonable opportunity of hearing in the said enquiry, but the revisional authority interfered with only on the ground that the petitioner was present during enquiry and his statement has also been recorded. That will not suffice because unless a reasonable opportunity of hearing much less to cross-examine the departmental witnesses and further opportunity to lead evidence is given and enquiry is conducted in accordance with rules, no order of termination can be passed. The revisional authority without meeting with the findings and without reversing the findings of the first appellate authority has allowed the revision, which is totally against the law & perverse to record.

10. In that view of the matter, the impugned order dated 5.4.2010 (Annexure P-10) passed by the revisional authority is hereby set-aside and that of the second appellate authority affirming the order of the first appellate authority is hereby restored.

11. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-