

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1316 of 2014

- Dhan Sai Bhagat S/o Shri Y.R. Bhagat Aged About 44 Years R/o Village Dongadarha, Post Ganjhiyadih Thana Tumla Tahsil Farsabahar, Distt. Jashpur C.G. , Chhattisgarh **---- Petitioner**

Versus

1. State Of Chhattisgarh And Ors. S/o Through The Secretary, Department Of Panchayat And Rural Development, New Mantralaya, Mahanadi - Bhawan New Raipur Distt. Raipur C.G., Chhattisgarh
2. The Collector Jashpur Distt. Jashpur C.G.,
3. The Sub Divisional Officer Revenue Kunkuri Distt. Jashpur C.G. ,
4. The Chief Executive Officer Janpad Panchayat Jashpur Distt. Jashpur C.G.

---- Respondents

For Petitioner	:	Mr. Manoj Chauhan, Advocate
For State	:	Mr. Aman Kesharwani, P.L.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

28.06.2021

Heard.

1. The challenge in this petition is to the order dated 16.06.2014 (Annexure P/1) wherein the recovery of Rs. 3,30,595/- has been ordered to be recovered through the CEO Janpad Panchayat- Farsabahar Dist. Jashpur (C.G.).
2. Learned counsel for the petitioner submits that the petitioner was a Secretary of Gram Panchayat- Pagurabahar, Janpad Panchayat- Farsabahar. He submits that the impugned order dated 16.06.2014 (Annexure P/1) has been passed without giving any opportunity of hearing to the petitioner wherein the liability has been imposed upon him whereas the petitioner was not at all responsible for the liability imposed. He further submits that in absence of any notice, the petitioner could not defend himself and the recovery order has been passed, therefore rules of natural justice are not followed.
3. Learned State counsel opposes the argument and submits that the order

dated 16.06.2016 is well merited and do not call for an interference.

4. Perusal of the order dated 16.06.2014 (Annexure P/1) shows that only the enquiry was conducted against one Siya Bai who was Sarpanch Gram Panchayat-Pagurabahar, Janpad Panchayat- Farsabahar. The reply of the State as to whether the petitioner was given any opportunity of hearing or not before such penalty was imposed is completely silent. Even otherwise, the petitioner is not a party in the order dated 16.06.2014 wherein liability is created.
5. Considering the fact that the petitioner was not made a party while the enquiry was conducted only the enquiry was conducted, against one Siya Bai who is Sarpanch Gram Panchayat-Pagurabahar, it is directed that the recovery which was imposed to the extent of Rs. 3,30,595/- against the petitioner shall not be made. With respect to the recovery as has been ordered to the extent of Rs. 3,30,595/- against Siya Bai, it would not affect the right of the State. In respect of the petitioner, the SDO shall be at liberty to hold a fresh enquiry after giving an opportunity of hearing to the petitioner and thereafter the suitable order may be passed. The petitioner shall appear before the SDO i.e. respondent No. 3 on 16.08.2021.
6. With the aforesaid observation/ direction, the writ petition stands disposed off.

Sd/-

(Goutam Bhaduri)

JUDGE