CGHC010158882023 2026:CGHC:45984

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPC No. 2274 of 2023**

**1 -** Ramadhar Sahu S/o Shri Ram Subhag Aged About 54 Years R/o Village Tolga, Post And Police Station Pondi (Bachra) District Korea Chhattisgarh

**... Petitioner**

**Versus**

**1 -** State of Chhattisgarh Through The Secretary, Panchayat And Rural Development, Mantralaya, Nawa Raipur, Atal Nagar District Raipur Chhattisgarh

**2 -** The Collector Baikunthpur District Korea Chhattisgarh

RAVVA UTTEJ KUMAR RAJU Digitally signed by RAVVA UTTEJ KUMAR RAJU Date: 2026.10.31 13:43:30 +0530

**3 -** The Food Officer District Korea Chhattisgarh

**4 -** The Sub Divisional Officer (Revenue) Baikunthpur, District Korea Chhattisgarh

**... Respondents**

**(Cause title is downloaded from CIS Periphery.)**

| | | |
|---|---|---|
| For Petitioner | : | Mr. Vijay Kumar Sahu, Advocate. |
| For State | : | Mr. Vivek Siddharth Ojha, P.L. |

**Hon'ble Shri Amitendra Kishore Prasad, Judge**
**Order on Board**

**30.10.2026**

**1.** By filing the present writ petition under Article 226 of the Constitution of India, the petitioner has called in question the legality, validity and propriety of the orders dated 27.03.2023 and 24.04.2023, whereby respondent No.4/Sub-Divisional Officer (Revenue) directed recovery of a sum of Rs. 6,76,958.51/- from the petitioner on account of alleged shortage of food grains in the Government Fair Price Shop, Sanwla bearing I.D. No. 532004020. The petitioner has prayed for following relief(s):-

> *"10.1 That, this Hon'ble Court may kindly be pleased to call the entire records pertaining to case of petitioner.*
>
> *10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ, thereby setting-aside/quashing the impugned orders dated 27.03.2023 & 24.04.2023 (Annexure P/1).*
>
> *10.3 That, any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the costs of the petition may be given.*"

**2.** Briefly stated, the facts of the case are that the petitioner, who is working as a Panchayat Secretary and was earlier posted at Gram Panchayat, Sanwla, claims to have discharged his duties sincerely and honestly without any complaint. However, respondent No. 4, without affording any opportunity of hearing to the petitioner, or initiating any proceedings or following the principles of natural justice and the provisions of the Chhattisgarh Public Distribution Scheme (Control) Order, 2016, issued the impugned orders

directing him to deposit a sum of Rs. 6,76,958.51 towards the alleged shortage of food grains in the concerned Fair Price Shop, failing which ex-parte legal action was threatened. The petitioner contends that although the details of the alleged shortage, based on physical verification conducted by respondent No. 3, were enclosed with the impugned orders, the physical verification report forming the basis of the recovery was never supplied to him. Aggrieved by the said orders, the petitioner has approached this Court under Article 226 of the Constitution of India, contending that the impugned action is in violation of the principles of natural justice, particularly the rule of *audi alteram partem*, and that the availability of an alternative remedy would not bar the exercise of writ jurisdiction in such circumstances, as recognised by the Supreme Court in *Harbanslal Sahnia v. Indian Oil Corporation Ltd.*, (2003) 2 SCC 107.

**3.** Learned counsel for the petitioner submits that the impugned recovery orders (Annexure P/1) passed by respondent No. 4 are arbitrary, unreasonable and unsustainable in law, as no shortage of food grains was ever established against the petitioner. It is contended that the recovery has been directed without issuing any prior notice, affording an opportunity of hearing or initiating any enquiry in accordance with the procedure prescribed under law, thereby violating the principles of natural justice. He further submits that the impugned orders are based upon an alleged physical verification report, though the said verification was neither conducted

in the presence of the petitioner nor was a copy of the report supplied to him, depriving him of an opportunity to controvert the alleged shortage. It is also contended that no irregularity was committed by the petitioner during his tenure and no complaint in this regard was ever made against him; therefore, he cannot be held responsible for the alleged shortage of food grains or subjected to recovery. On these grounds, learned counsel submits that the impugned orders are liable to be quashed and set aside.

**4.** *Per contra*, learned counsel for the State submits that the writ petition is based on an incomplete and incorrect appreciation of the facts and is liable to be dismissed, particularly in view of the efficacious alternative statutory remedy available to the petitioner under Sections 18(1) and 18(2) of the Chhattisgarh Public Distribution System (Control) Order, 2016, by way of appeal before the Collector/Additional Collector and, thereafter, before the State Government. It is contended that the alleged shortage of food grains was not determined arbitrarily or mechanically, but only after physical verification of the stock available at the concerned Fair Price Shop and comparison thereof with the official stock records. Learned counsel further submits that the proceedings were conducted between November, 2022 and April, 2023, during which discrepancies in the stock of wheat and rice were noticed, and the petitioner was afforded an opportunity to explain the same. In this regard, reliance is placed upon the order-sheet and departmental proceedings (Annexure R-1), the physical verification report and stock statements (Annexure R-2), and the communication/order

dated 24.04.2023, along with the explanations, representations and reconciliation documents (Annexure R-3). It is further submitted that the petitioner's contention that no enquiry was conducted or opportunity of hearing was granted is contrary to the documentary record, which demonstrates that the stock position was verified, the discrepancies were examined and the explanations submitted were duly considered by the competent authorities. Learned counsel also submits that the question of the petitioner's responsibility for the alleged shortage involves disputed questions of fact requiring examination of the stock records, physical verification material and duties assigned to the persons concerned, and therefore, does not warrant interference in exercise of the extraordinary writ jurisdiction of this Court. It is, accordingly, contended that the petitioner has failed to establish any arbitrariness, mala fides or procedural illegality in the impugned action and that the writ petition deserves to be dismissed.

**5.** I have heard learned counsel for the parties at length and perused the pleadings of the parties and the documents brought on record.

**6.** From a perusal of the order-sheet dated 15.06.2023, it transpires that while entertaining the writ petition, the Coordinate Bench of this Court had recorded a *prima facie* finding that the State was not in a position to demonstrate whether an effective opportunity of hearing had been afforded to the petitioner before passing of the impugned recovery orders. The Coordinate Bench also took note of the specific contention of the petitioner that no preliminary enquiry had been

conducted before fastening liability upon him. Being *prima facie* satisfied that the petitioner had made out a strong case for grant of interim protection, the Coordinate Bench admitted the writ petition and stayed the recovery proceedings initiated pursuant to the impugned orders, which interim protection continued during the pendency of the present writ petition.

**7.** Having given anxious consideration to the rival submissions and upon careful examination of the material available on record, it seems that although the respondents have sought to justify the recovery proceedings by placing reliance upon the physical verification report, Panchnama, the records do not satisfactorily demonstrate that a comprehensive enquiry, in conformity with the requirements of Clause 16 of the Chhattisgarh Public Distribution System (Control) Order, 2016, was conducted before determining the petitioner's liability.

**8.** The principles of natural justice are not empty formalities. Whenever civil consequences ensue by way of recovery of public money or determination of liability against a person, the authority concerned is duty-bound to conduct a fair, transparent and meaningful enquiry by affording an adequate opportunity to the affected person. Such opportunity necessarily includes disclosure of the material sought to be relied upon, permitting the petitioner to controvert the allegations, adducing evidence, examining relevant witnesses wherever necessary and thereafter recording reasoned findings based upon the evidence available on record.

**9.** In the present case, this Court finds that the competent authority has proceeded to fasten monetary liability of Rs. 6,76,958.51/- upon the petitioner without undertaking a complete enquiry in the manner contemplated under the Control Order, 2016. The records also do not reveal that the petitioner was afforded an effective opportunity to rebut the alleged shortage or to controvert the material relied upon against him. The impugned orders, therefore, do not inspire confidence as having been passed after a full-fledged enquiry satisfying the requirements of procedural fairness.

**10.** This Court is conscious of the fact that it is not required to enter into the disputed questions regarding the actual shortage of food grains or the petitioner's liability. Those are essentially matters to be determined by the competent authority upon appreciation of evidence. However, when the decision-making process itself is found to be deficient and contrary to the prescribed procedure, this Court, in exercise of its writ jurisdiction, is justified in interfering with the impugned orders and relegating the parties to the competent authority for fresh adjudication.

**11.** Consequently, the impugned orders dated 27.03.2023 and 24.04.2023 are hereby set aside. The matter is remitted to the Sub-Divisional Officer (Revenue), Baikunthpur, District Korea (C.G.), for fresh consideration. The concerned Sub-Divisional Officer (Revenue) shall conduct a fresh enquiry strictly in accordance with Clause 16 of the Chhattisgarh Public Distribution System (Control) Order, 2016. Before passing any final order, the authority shall afford adequate

and effective opportunity of hearing to the petitioner, permit him to produce all documents in his defence, record the statements of all relevant witnesses whose evidence is necessary for proper adjudication of the controversy and thereafter pass a reasoned and speaking order strictly in accordance with law.

**12.** It is further directed that the petitioner shall obtain the certified copy of this order within one week from today and shall place the same before the concerned Sub-Divisional Officer (Revenue). Upon production of the certified copy, the competent authority shall proceed with the enquiry forthwith and shall make every endeavour to conclude the entire proceedings and pass a final order within a period of 30 days from the date of production of the certified copy of this order.

**13.** It is made clear that no further notice shall be required to be issued to the concerned Sub-Divisional Officer (Revenue) in pursuance of this order. However, the competent authority shall issue appropriate notices to all necessary and affected parties, including the petitioner and any other person whose presence or evidence is considered necessary, so as to ensure that the enquiry is conducted in a fair, transparent and comprehensive manner within the aforesaid period.

**14.** The petitioner is also directed to extend full cooperation in the enquiry as contemplated under Clause 16 of the Chhattisgarh Public Distribution System (Control) Order, 2016. In the event the petitioner fails to cooperate or deliberately delays the proceedings, it shall be open to the competent authority to proceed further in accordance

with law and pass appropriate orders on the basis of the material available on record.

**15.** It is clarified that this Court has not expressed any opinion on the merits of the allegations levelled against the petitioner or with regard to the alleged shortage of food grains, and all questions of fact and law are left open to be adjudicated independently by the competent authority without being influenced by any observation contained in this order.

**16.** With the aforesaid observations and directions, the writ petition stands **allowed**. There shall be no order as to costs.

Sd/-

**(Amitendra Kishore Prasad)**
**Judge**

U.K. Raju