



CGHC010315682023



2026:CGHC:34628

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 4177 of 2023

Sahkari Vipnan Sanstha Maryadit, Baikunthpur District Baikunthpur, District Korea, Chhattisgarh (A Registered Cooperative Society Having Registration No. Drcs/ Bsp/730 Dated 03/01/1958) Through Its Manager, Shailesh Kumar Dubey S/o (Late) Sukh Ram Dubey Aged About 58 Years, R/o Village Mandalpara, Police- Station And Tehsil Baikunthpur, District Korea, Chhattisgarh

... Petitioner

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Food And Civil Supplies, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur (C.G.)

2 - Collector Korea, Baikunthpur, District Korea, Chhattisgarh

3 - Sub Divisional Officer (R) Baikunthpur, Tehsil Baikunthpur, District Korea, Chhattisgarh

4 - Joint Collector And Food Officer Baikunthpur, District Korea, Chhattisgarh

5 - District Manager Chhattisgarh State Civil Supplies Corporation Limited, Baikunthpur, District Korea, Chhattisgarh

6 - Branch Manager Chhattisgarh State Warehousing Corporation, Baikunthpur, District Korea, Chhattisgarh

7 - (Deleted) Shrimati Asgari Siddiqui As Per Honble Court Order Dated 27-09-2023.

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For Petitioner	:	Mr. Mahendra Dubey, Advocate
For State-Respondent	:	Mr. Shreyansh Mehta, PL

Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

06/08/2026

1. The petitioner has preferred this writ petition under Article 226 of the Constitution of India seeking following relief(s) :-

“10.1 This Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction quashing/setting-aside the impugned order/memo no. 665/Khadya/P.D.S./2023 dated 05/09/2023 (Annexure-P/1) to the extent it related to recovery of alleged amount of Rs. 12,89,221/- from the Petitioner society.

10.2 This Hon'ble Court may kindly be pleased to declare that the Petitioner society is not liable to any irregularities and recovery committed and arisen in and from the Government Fair Price Shop, Kenapara, tehsil Baikunthpur, district Korea, Chhattisgarh.

10.3 This Hon'ble Court may kindly be pleased to pass any other order which may deem fit and proper under the facts and circumstances.”

2. Brief facts of this case is that the petitioner, a cooperative society, runs several Government Fair Price Shops in Baikunthpur, District Korea, under the Chhattisgarh Public Distribution System (Control) Orders, 2004 and 2016. In March 2020, the Fair Price Shop at Kenapara was temporarily attached to the petitioner society after cancellation of the allotment of the concerned Self-Help Group. The petitioner appointed respondent No.7 as the part-time Sales-in-Charge of the said shop. On

26.10.2021, certain irregularities were allegedly found during inspection of the Kenapara Fair Price Shop. A show-cause notice was issued to the petitioner and respondent No.7, and thereafter an inquiry was conducted. By order dated 12.11.2021, both were held liable for violation of the PDS Control Order, 2016 and directed to deposit ₹12,89,221/-. The petitioner contends that the inquiry was conducted without providing proper opportunity of hearing and that the alleged irregularities were attributable solely to respondent No.7, against whom separate action has been initiated. The petitioner further challenges the subsequent order dated 06.04.2022 directing recovery of the said amount and the order dated 05.09.2023 directing adjustment of the amount from the commission payable to the petitioner from its other Fair Price Shops. It is contended that any recovery relating to irregularities at the Kenapara Shop could not be extended to the other shops operated by the petitioner. Accordingly, the petitioner seeks quashing of the impugned orders, insofar as they impose liability upon the petitioner society and permit recovery from its other Fair Price Shops. Hence, this petition.

3. Learned counsel for the petitioner would submit that, by the impugned order, the respondent authorities have directed adjustment of the amount towards alleged deficit of food grains found in one of the five Fair Price Shops operated by the petitioner, against the commission payable to the petitioner in respect of its other four Fair Price Shops. It is submitted that, although the alleged deficit was found in only one

Fair Price Shop, instead of conducting a proper inquiry in accordance with the provisions of the Chhattisgarh Public Distribution System (Control) Order, 2016, the respondent authorities have directly issued notice and directed adjustment of the alleged amount from the commission payable to the petitioner. He further submits that the impugned order is ex-facie illegal and contrary to the procedure prescribed under the Control Order, 2016, as no liability has been fastened upon the petitioner after conducting the requisite inquiry. Under the said Control Order, the concerned SDO (Revenue) is required to conduct an inquiry after affording due opportunity of hearing to the petitioner and, only upon a finding that the petitioner is liable for the alleged deficit of food grains, the amount can be recovered in accordance with the prescribed procedure. However, without conducting such inquiry and without recording any finding regarding the petitioner's liability, the respondent authorities could not have unilaterally recovered the alleged amount by adjusting the same against the commission payable to the petitioner in respect of its other Fair Price Shops. He, therefore, submits that the impugned order deserves to be set aside. He relied upon the order passed by the Division Bench of this Court in the case of **M/s. Shree Construction Vs. State of Chhattisgarh & Ors.** in WP(C) No.5717 of 2011 decided on **10.04.2012**.

4. Learned State counsel submits that the recovery made by the authorities is in accordance with law. It is submitted that the petitioner

was operating about five Fair Price Shops and, upon verification, a shortage of food grains was found in one of the shops. Accordingly, the amount found recoverable towards such shortage has been adjusted against the commission payable to the petitioner. He further submits that the action has been taken in accordance with Clause 16(5) of the Chhattisgarh Public Distribution System (Control) Order, 2016, which specifically provides for adjustment of the recoverable amount from the commission payable to the Fair Price Shop.

5. I have heard learned counsel for the parties and perused the material available on record.
6. I have heard learned counsel for the parties and and perused the records. On perusal of the records, it appears that the inquiry as envisaged under Control Order 16 of Clause 16 has not been conducted and liability is yet to be fastened upon the petitioner for recovery which has not been done and in lieu of the aforesaid inquiry, the amount in dispute has been adjusted with the commission of other four fair price shops which were running by the petitioner which is not prima facie in accordance with law. .
7. The alleged deficit of food grains was found in only one of the five Fair Price Shops operated by the petitioner. However, instead of determining the petitioner's liability in accordance with the procedure prescribed under the Chhattisgarh Public Distribution System (Control) Order, 2016, the respondent authorities have proceeded to recover the

alleged amount by adjusting the same against the commission payable to the petitioner in respect of its other Fair Price Shops.

8. The respondents have not placed on record any material to demonstrate that, after conducting the requisite inquiry and affording due opportunity of hearing to the petitioner, any finding was recorded holding the petitioner liable for the alleged deficit. In the absence of such determination, the unilateral adjustment/recovery of the alleged amount from the commission payable in respect of other Fair Price Shops cannot be sustained in law.
9. The principles of natural justice and the procedure prescribed under the Chhattisgarh Public Distribution System (Control) Order, 2016 require the competent authority to first determine the liability of the petitioner after conducting an appropriate inquiry and affording due opportunity of hearing. Only thereafter can any amount found recoverable from the petitioner be recovered in accordance with law. The impugned order, having been passed without following such procedure and without recording a finding regarding the petitioner's liability, is therefore unsustainable.
10. Accordingly, the instant petition is allowed and impugned orders Annexures-P1 & P-2 are quashed. However, liberty is granted to the authorities concerned to initiate appropriate proceedings against the petitioner under Section 16 of the Chhattisgarh Public Distribution System (Control) Order, 2016, in respect of the alleged deficit of food

grains found in any of the Fair Price Shops operated by the petitioner.

If such proceedings are initiated, the authorities concerned shall consider the case of the petitioner after affording him due opportunity of hearing and after following the procedure prescribed under law. The competent authority shall thereafter pass an appropriate and reasoned order within a period of **30 days** from the date of receipt of a copy of this order.

11. The petitioner shall appear before the concerned authority along with a copy of this order and shall cooperate in the proceedings.
12. So far as the direction regarding recovery and adjustment of the alleged deficit amount from the commission payable to the petitioner in respect of his other Fair Price Shops is concerned, if the amount has not yet been recovered, the authorities concerned shall not give effect to such direction. However, if, upon conducting an inquiry in accordance with Section 16 of the Chhattisgarh Public Distribution System (Control) Order, 2016, any amount is found to be recoverable from the petitioner, the same shall be recovered strictly in accordance with law and after following due process.
13. Resultantly, the writ petition stands disposed of.

Sd/-
(Amitendra Kishore Prasad)
Judge