

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1920 of 2014

Om Sai Baba Mahila Swa Sahayta Samuh Through Its President Anupa Yadav W/o Rajkumar Yadav Age 38 Yrs R/o Village Chikhli Block Durg P.S. Durg. Tahsil & Distt. Durg C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Food, Civil Supplies And Consumer Protection, Mahanadi Bhawan, Mantralaya, New Raipur C.G.
2. The Collector, Durg., P.S. & Post Durg, Tah and Distt. Durg. C.G.
3. The Sub Divisional Officer (Revenue) Durg, P.S. & Distt. Durg. C.G.
4. The Food Controller Office Of Collector (Food Department) Durg, P.S. & Distt. Durg C.G.
5. The Food Inspector, Office Of Collector (Food Department) Durg, P.S. & Distt. Durg. C.G.

---- Respondents

Shri Avinash Chand Sahu, counsel for the petitioner/s.
Shri Satish Gupta, Govt. Adv. for the State / respondents.

Order On Board

10/09/2015

Suspension of petitioner's license and attaching his shop to another fair price shop vide impugned order dated 11/09/14 is challenged on the ground that opportunity of hearing as required under Rule 16 (3) of C.G. Public Distribution System (Control) Order, 2004 (for short 'Order of 2004') has been violated.

2. Learned counsel for the petitioner submits that as per show cause notice, the petitioner appeared before the Sub-Divisional Officer on 05/09/14 through his counsel and he was given the next date 11/09/14 to file reply. On 11/09/14, appearance was made through the counsel and demanded copy of documents and 24/09/14 was fixed as the next date of hearing but before

that day, the impugned order was passed on 11/09/14 itself.

3. Before canceling / suspending the license, mandatory provision contained in Rule 16 (3) of the Order of 2004 requires proper opportunity of hearing to be afforded. The relevant provision is reproduced hereinbelow -

“16 (3) - Before cancellation of authority letter of Fair Price Shop or forfeiture of whole or part of security, Food Controller or Food Officer of district, Sub-Divisional Officer of sub-division shall issue show cause notice and after giving him appropriate opportunity of hearing decision shall be made. This action shall be completed within a month from issuance of show cause notice.”

4. Learned State counsel also could not dispute the aforesaid legal position.

5. In view of the grounds raised in this petition that proper opportunity of hearing was not afforded to the petitioner, the impugned order is set aside. The matter is remanded to the competent authority who shall afford due and proper opportunity of hearing to the petitioner and thereafter, shall pass proper order after due application of mind to the defence of the petitioner and in accordance with law.

Sd/-

Manindra Mohan Shrivastava
Judge