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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 136 of 2016**

- Jai Ma Samlai Mahila Swa Sahayata Samuh Through The Secretary Uttari Devi Ratre, W/op Chitra Kumar Ratre, Aged About 35 Years, R/o Village Hardidih, Block Jaijaipur, Tahsil Jaijaipur, District Janjgir Champa Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Food Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh
2. Collector, Janjgir Champa Chhattisgarh
3. Sub Divisional Officer, Revenue Sakti, District Janjgir Champa Chhattisgarh
4. Food Inspector, Jaijaipur, District Janjgir Champa Chhattisgarh
5. Jai Ma Durga Multipurpose Cooperative Society Maryadit Baheradih, Through President Office At Village Panchayat Hardidih, Block Jaijaipur, Tahsil Jaijaipur, District Janjgir Champa Chhattisgarh

---- **Respondent**

For Petitioner	:	Shri Yogesh Chandra, Advocate
For Respondents-State	:	Shri PK Bhaduri, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****25/01/2016**

1. Petitioner would assail the legality and validity of the appellate order passed by the Collector, Janjgir-Champa, dismissing petitioner's appeal under Section 18 (2) of the Chhattisgarh Public Distribution System (Control) Order, 2004 (for short 'the Control Order, 2004'). Before the Collector, the petitioner had questioned the legality and validity of the order passed by the competent authority on 13-5-15 suspending allotment of fair price shop of

Gram Panchayat, Hardidih, which was operated by the petitioner since 2013.

2. Shri Chandra, learned counsel for the petitioner would submit that although further appeal is provided under Clause 18 (2) of the Control Order 2004, however, since the initial appeal itself was wrongly preferred before the Collector as an order of suspension is not appealable, the petitioner has directly approached this Court. He would further submit that the Control Order, 2004 do not provide for the definite time frame till which the suspension would operate, therefore, denying the petitioner right to operate the fair price shop for indefinite period without canceling the same is arbitrary and illegal.
3. Shri PK Bhaduri, learned Govt. Advocate appearing on advance notice would submit that the competent authority i.e. the Sub Divisional Officer (R) has been empowered to take steps for cancellation of the allotment of fair price shop under Clause 16 (3) of the Control Order, 2004, therefore, in all likelihood such proceedings must have commenced. He would submit that if no such proceeding has been drawn, the competent authority would be informed about the requirement of taking final decision in the matter so that petitioner's fate does not remain in limbo.
4. Considering the nature of allegation against the petitioner as is reflected from the order passed by the Collector as also for the reason that the competent authority is also required to decide the matter finally, either to revoke the suspension or to cancel the allotment of fair price shop, the writ petition is disposed of with a direction to the concerned Sub Divisional Officer (R) to decide the matter finally by issuing charge-sheet against the petitioner, providing opportunity of hearing to him in respect of exercise of

powers by him as conferred under Clause 16 (3) of the Control Order, 2004.

Let the entire exercise be completed within a period of 4 months from the date of submission of certified copy of this order before the concerned Sub Divisional Officer (R).

5. It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent authorities shall decide the matter, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

Sd/-

Judge

Prashant Kumar Mishra

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