

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 419 of 2016

- Maa Chandi Sahkari Prathmik Upbhokta Bhandar Maryadit Daniya, Through The President Murari Ram Patel, Aged About 56 Years, S/o Shri Dev Prasad, R/o Village Daniya, Post Bori, Tehsil Dhamdha, P.S. Bori, District Durg, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Food, Civil Supplies And Consumer Protection, Mahanadi Bhawan, New Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
2. Collector, Durg, District Durg, (Chhattisgarh)
3. Sub Divisional Officer (Revenue), Dhamdha, Post & P.S. Dhamdha, District Durg, (Chhattisgarh)
4. Gram Panchayat Daniya, Through The Panchayat Secretary, Block Dhamdha, District Durg, (Chhattisgarh)
5. Smt. Rekha Vijay Sen, Sarpanch, Gram Panchayat, Daniya, Block Dhamdha, District Durg, (Chhattisgarh)
6. Balram Patel, Panch, Gram Panchayat Daniya, Block Dhamdha, District Durg, (Chhattisgarh)

---- Respondent

For Petitioner	Shri Jitendra Pali, Advocate
For Respondent-State	Shri Arun Sao, Dy. AG
For Respondent Nos.4 to 6	Shri Praveen Dhurandhar, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

01/09/2016

1. Challenge in this petition is to the order passed by the Sub Divisional Officer (Revenue) {henceforth 'the SDO (R)},

Dhamdha, District Durg cancelling the petitioner's allotment of fair price shop for Village Daniya, Block and Tahsil Dhamdha, District Durg.

2. The impugned order has been passed in exercise of powers under Clause 16 of the Chhattisgarh Public Distribution System (Control) Order, 2004. The order is appealable before the Collector, however, the writ petition was entertained because the impugned order was passed without issuing show cause notice or giving any opportunity of hearing to the petitioner.
3. In the return filed by the State, there is no averment contradicting the petitioner's stand that opportunity of hearing was not afforded to the petitioner before passing the impugned order imposing penalty of cancellation of allotment. Thus, it is an admitted position that principles of natural justice have been violated while passing the impugned order.
4. At this stage, Shri Pali, learned counsel for the petitioner, would submit that there were two inspections and enquiries, wherein the complaint against the petitioner was found to be baseless, therefore, on merits also the petitioner has a good case for interference and the matter need not be remitted back.
5. Considering the fact that there is violation of principles of natural justice and the petitioner has not been heard, this Court is of the considered opinion that instead of hearing the parties on merits, the matter should be re-examined by the SDO (R), Dhamdha after giving proper opportunity of hearing to the petitioner, wherein the petitioner would be at liberty to raise all his defences

including the grounds raised in this writ petition.

6. Accordingly, the impugned order is set aside and the matter is remitted back to the SDO (R), Dhamdha for initiating fresh proceedings by issuing notice to the petitioner and thereafter taking decision in accordance with law by passing a reasoned order after hearing all the parties and considering the entire material.
7. The SDO (R), Dhamdha shall complete the proceedings at the earliest.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala