

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.2762 of 2006

1. Bastar Zila Thok Upbhokta Bhandar Maryadit (Whole Sale Consumer Cooperative Society), Jagdalpur, District Bastar (C.G.), Registered under the C.G. Cooperative Societies Act, 1960, vide Regd. No.DR/BTR/674, Dtd. 21.10.1976, Through its Assistant Manager, P.N. Mishra, aged about 40 years, S/o Shri R.A. Mishra, office at Nayapara, Jagdalpur, District Bastar (C.G.)
2. Prathmik Adarsh Sahkari Samiti Maryadit, Jagdalpur, District Bastar, Registered under the provisions of the C.G. Cooperative Societies Act, 1960 vide Regd. No. DR/BTR/458, Dtd. 18.02.2002, Through its Manager, Ramesh Bajpai, aged about 49 years, S/o Shri R.P. Bajpai, office at Danteshwari Ward (Baila Bazar), Jagdalpur, District Bastar (C.G.)

---- Petitioners

Versus

1. The State of Chhattisgarh, Through the Principal Secretary, Department of Food and Civil Supplies and Consumer Protection, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. The Collector (Food Section), District Bastar, Jagdalpur (C.G.)
3. The Food Controller, District Bastar, Jagdalpur (C.G.)
4. The Sub Divisional Officer (Revenue), Jagdalpur, District Bastar (C.G.)

---- Respondents

For Petitioners: Mr. Avinash K. Mishra, Advocate.
 For Respondents/State: Mr. Arun Sao, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board01/11/2017

1. The petitioners were registered Consumer Co-operative Societies running fair price shops more than three in Bastar District. The State Government incorporated certain amendments in the Chhattisgarh Public Distribution System (Control) Order, 2004, restricting maximum limit of fair price shops to be three in clause 9 of the said order by

notification dated 21-3-2006. The said notification was challenged in W.P.No.5265/2006 (Sunder Prathmik Upbhokta Sahakari Bhandar Maryadit v. State of Chhattisgarh and others) and it has been upheld by order dated 9-3-2007 holding that restricting the maximum limit of three fair price shops is reasonable restriction and in accordance with law.

2. Learned counsel for the petitioners would submit that the said notification dated 21-3-2006 restricts the allotment of three fair price shops to a private person, but not to a cooperative society and as such, there is no direction to cancel the fair price shops already allotted to the cooperative society. Therefore, the orders impugned cancelling their fair price shops more than three, are unsustainable and bad in law.
3. Learned State counsel would support the impugned orders and submit that allotment of the petitioners' fair price shops, which are more than three, have already been cancelled and the same have been allotted to some other eligible persons by the impugned order which is strictly in accordance with law. He would also bring to the notice of the Court that the Chhattisgarh Public Distribution System (Control) Order, 2004 has already been repealed and the Chhattisgarh Public Distribution System (Control) Order, 2016 has been brought into force with effect from 23-1-2017 in which clause 9.4 provides similar provision that in no circumstances number of shops so allotted shall exceed three fair price shops.
4. I have heard learned counsel for the parties and considered the rival submissions made herein above.
5. By notification dated 21-3-2006, the Control Order, 2004 has been

amended in which clause 9 (1) and 9 (2) (c) have been inserted which read as under: -

“(1) Fair Price Shop run by Large Aadimjati Multipurpose Co-operative Societies (LAMPS), Primary credit co-operative societies, forest protection committees, self help groups, gram panchayats and other co-operative societies shall be continued but not run by the private persons subject to the conditions of other provisions of the Chhattisgarh Public Distribution System (Control) Order, 2004. Within six months from commencement of this Order, Fair Price Shops run by the private persons shall be cancelled and allotted to the specified agencies mentioned in sub-rule (3) and (4) of rule 9.”

“(2) (c) Fair price shop shall be allotted to only those Co-operative society which is constituted with the object of distributing or selling essential commodities to its member and to other people in the area.

Ordinarily one fair price shop shall be allotted to any agency for its area of operation but to ensure regular supplies of essential commodities to ration cardholders, authorised officer may allot more than one fair price shop to any agency by assigning specific reason, but in any case the number will not exceed three fair price shops.”

6. Thereafter, the State Government has issued memo dated 1-4-2006 and directed that if a person is running fair price shop more than three, then it should be cancelled and it should be allotted to another eligible person and in accordance with that memo, the impugned order has been passed cancelling the allotment of more than three fair price shops, on 10-4-2006. Proviso to clause 9(2)(c) of the afore-quoted clause states that in any case, number of shops will not exceed three fair price shops and in accordance with that, the order impugned has been passed. Even otherwise, the petitioners' tenure

according to their agreement had already expired way back in the year 2010 and that cannot be revived in view of clause 9.4 of the Control Order, 2016 which also restricts that only one fair price shop can be allotted to an agency in its area. In no circumstances, the number of shops so allotted shall exceed three fair price shops.

7. In view of the aforesaid factual background and taking into consideration the fact that the petitioners' tenure to run fair price shops has already come to an end and the new Control Order had already been enforced with effect from 23-1-2017, no relief can be granted to the petitioners.
8. For the foregoing reasons, the writ petition deserves to be and is accordingly dismissed leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge