

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.204 of 2016**

M/s Agrawal Oil Mill Agrawal Oil Agency, Bagbahara, Through : The Director, Rupesh Agrawal, S/o Late Shri V. S. Agrawal, Aged About 40 Years, R/o Bagbahara, P.S. Bagbahara, District Mahasamund (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Food And Civil Supply Public Distribution System Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Tahsil & District Raipur (Chhattisgarh).
2. The Commissioner, Raipur Division, Raipur (Chhattisgarh).
3. The Collector, Mahasamund, Collectorate Campus, Mahasamund (Chhattisgarh).
4. The Indian Oil Corporation, Through : The Divisional Manager, Indian Oil Corporation, Ravigram, P. S. Telibandha, V.I.P. Road, Raipur, Tahsil & District Raipur (Chhattisgarh).
5. The District Food Officer, Mahasamund, Collectorate Campus, Mahasamund, Tahsil & District Mahasamund (Chhattisgarh).

---- Respondents

For Petitioner	:	Mr.S.C.Verma, Advocate
For Res.No.1 to 3 and 5	:	Mr.Gary Mukhopadhyay, Dy.G.A.
For Respondent No.4	:	Mr.Anand Shukla, Advcoate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

31/7/2017

1. The petitioner is aggrieved against the order dated 30.11.2015 (Annexure P/1) passed by the Commissioner, Raipur Division, Raipur in Appeal Case No.117/B-121/2014-15 by which he has affirmed the order passed by the Collector, Mahasamund in Case No.173/B-121/2014-15, whereby the petitioner's kerosene dealership has been suspended and security deposited for issuance of license has been forfeited in faovur of the Government.
2. Learned counsel for the petitioner would submit that 26.3.2015 was the date fixed by the Office Superintendent, which was formal in

nature, on that day, the case was fixed for orders and the impugned order has been passed suspending the license of the petitioner and forfeiting the security deposited by the petitioner and the Commissioner in a very cryptic and casual manner affirmed the order passed by the Collector.

3. On the other hand, learned State Counsel and learned counsel for respondent No.4 would support the impugned order.
4. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
5. It is not in dispute that the petitioner was served with a show-cause for certain violations in carrying dealership, in which he has submitted his reply and the case was fixed for 23.3.2015, on that day, the Collector/Licensing Authority was on leave, therefore, the Superintendent of that office fixed the case for orders on 26.3.2015, as such 26.3.2015 was not the date fixed by the Presiding Officer for hearing. It appears that on that day argument was heard and matter was closed for orders.
6. From perusal of the aforesaid order-sheets, it appears that after reply neither the charges levelled against the petitioner were said to be proved by the State nor the petitioner was given an opportunity to explain his position and it has been held that the petitioner he has not violated the Control Order. Cancellation of license and forfeiture of security amount by the State without giving proper and reasonable opportunity has caused prejudice to the petitioner in view of the provisions contained in the Madhya Pradesh Kerosene Dealers Licensing Order (1979) as suspension of dealership license and

confiscation involves civil consequences, therefore, proper and reasonable opportunity ought to have been given to the petitioner before suspending the license. The non-compliance of the aforesaid mandatory provisions impliedly depriving the petitioner from his fundamental rights enshrined under Article 19 (1) (g) of the Constitution of India.

7. Therefore, the impugned order passed by the Collector as affirmed by the Commissioner is set aside. The matter is restored to the original file of the Collector for hearing and disposal in accordance with law after affording an opportunity of hearing to the petitioner.
8. The writ petition is allowed to the extend indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-