

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2601 of 2018

- Lakshmi Prathmik Upbhokta Sahkari Bhandar Marya (A Registered Society), Through Its President Ramayan Singh Bhuwal, S/o Ramratan Singh Bhuwal, Aged 46 Years, Address- Mathpara, Near Chandi Temple, P.S. Durg Kotwali, District Durg, Chhattisgarh

---- Petitioner

Versus

1. District Collector Durg, Collectorate, Patel Chowk, District Durg, Chhattisgarh
2. Food Controller, Durg District, Collectorate, Patel Chowk, District Durg, Chhattisgarh
3. Shakti Mahila Swa. Sahayata Samuh (a registered Co-operative Society), Address- Mathpura, Near Chandi Temple, P.S. Durg Kotwali, District Durg, Chhattisgarh
4. Food Civil Supplies and Consumer Protection Department, Chhattisgarh, Through its Principal Secretary, Chhattisgarh

---- Respondents

For Petitioner

Shri Shikhar Sharma, Advocate

For Respondent-State

Shri Shashank Thakur, GA

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

24/09/2018

1. By order (Annexure-P-2), the Collector (Food), District Durg has suspended petitioner's fair price shop in purported exercise of power under Clause 16 of the Chhattisgarh PDS Control Order, 2004 (henceforth 'the Order, 2004').
2. Clause 16 (1) of the Order, 2004 speaks about penalty and suspension is one of the major penalty mentioned in Clause 16

(1). Under sub-clause (3) of Clause 16, the Designated Authority is enjoined to issue show cause notice before cancellation of allotment of fair price shop and the final order is required to be passed within a month from the date of issuance of show cause notice, meaning thereby that the entire procedure for cancellation of the allotment of fair price shop is to be completed within one month.

3. In the case at hand, after suspension of petitioner's allotment of fair price shop, no other action has been initiated against him. Therefore, it appears, the Collector is treating the order of suspension as the final order imposing penalty upon the petitioner, but an order of suspension cannot remain in operation for an indefinite period making the same an order of cancellation of allotment.
4. In the circumstances, I deem it appropriate to dispose of the writ petition by directing the Collector (Food), Durg to pass final order against the petitioner within a period of one month from today, failing which immediately after expiry of one month period, the order (Annexure-P-2) shall cease to remain in operation and the petitioner shall be entitled to run the fair price shop, as if the Collector (Food), Durg does not intend to pass any order directing cancellation of petitioner's fair price shop.

Sd/-
Prashant Kumar Mishra
Judge