

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3069 of 2019**

- Mahila Swa-Sahayata Samuh Village Tendua Through Its President Smt. Harabai Patel, W/o Mohit Ram Patel, Aged About 43 Years, R/o Village Tendua, Village Panchayat Amlipali (B), Tehsil Sarangarh, District- Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department Of Food, Mantralya, Mahanadi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh
2. The Collector Raigarh District- Raigarh, Chhattisgarh
3. The Sub Divisional Officer (Revenue) Sarangarh, District- Raigarh, Chhattisgarh

---- Respondents

For Petitioner : Shri Roop Naik, Advocate

For Respondents/State : Shri Priyank Rathi, PL

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****16/09/2019**

1. Heard.
2. The present petition is against the order dated 02.07.2019 passed by respondent No.2, whereby the stay application of the petitioner has been dismissed.
3. Learned counsel for the petitioner would submit that the petitioner was allotted the distribution fair price shop in the year 2005. On an inspection, carried out on 05.12.2017 by the food inspector, on physical verification of the stock and the stock kept in the tablet an electronic device, it was found to be different. On

which a show-cause notice was issued to the petitioner. Subsequently, after the show-cause notice was served, the same was replied wherein it was stated that the stocks were received from the warehouse on 27.11.2017 and because some celebration named as Chaval Mahotsav, the stock was not entered in the electronic record. Subsequent thereto an order was passed by the SDO and the allotment of the fair price shop of the petitioner was canceled by order dated 07.06.2019. Against such order, an appeal was preferred under Section 18 (2) of the Chhattisgarh Public Distribution System (Control) Order, 2016 (for short 'the Order, 2016'), wherein the appeal was admitted but stay application preferred along with the appeal was dismissed. Hence this petition.

4. Learned counsel for the petitioner would submit that the order is non-speaking and cryptic and though the appeal was admitted, however, the stay application has not been entertained, consequently, it would render the entire filing of the appeal infructuous.
5. Learned State counsel opposes the arguments and submits that the appeal should have been filed under Section 18 (1) of the Order 2016, therefore, this petition is not maintainable.
6. Perused the impugned order dated 02.07.2019. The perusal of the order shows that by one single line the stay application has been dismissed projecting that stay is dismissed after consideration. Certainly no reason has been assigned in such order and simply the rejection order in a line has been followed. In the same continuity the Collector has called for the record of the Court below. The facts would suggest that despite issuance of show-cause notice, the petitioner was continuing with the fair price shop up till it was canceled by the order of SDO. Now the appeal is being heard by the Collector and the records have

been called for by the order dated 02.07.2019 by which the stay application has also been rejected, while such application for stay being rejected necessarily the same may not be a detail order on merit but at least prima facie reasons to reject the application must indicate. Citing even no prima facie reasons and to sideline any cause cannot be appreciated in the fashion as has been done. In the facts of this case, it is directed that the Collector may hear the appeal on merits and till then the order of the SDO dated 07.06.2019, if it is not given effect to till date, shall not be carried out.

7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu