

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 3902 of 2019

Krishak Sewa Sahakari Samity Maryadit Kohka, Through Its President - Anil Kumar Dewangan S/o Rambharosa Dewangan, Aged About 55 Years, Krishak Sewa Sahakari Samity Maryadit Kohka, District Durg, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Food Supplies And Consumer Protection, Mahanadi Bhawan Mantralay Atal Nagar, District – Raipur, Chhattisgarh
2. The Director Of Food Civil Supplies And Consumer Protection, Block 2 3rd Floor, Indrawati Bhawan, Mantralay Atal Nagar, District- Raipur Chhattisgarh
3. The Collector (Food) Collectorate Office Durg, District Durg Chhattisgarh
4. The Commissioner, Civil Supplies And Consumer Protection Department, Directorate Civil Supplies And Consumer Protection Block 2 3rd Floor, Indrawati Bhawan, Mantralay Atal Nagar, District- Raipur, Chhattisgarh
5. Food Controller, Durg, District – Durg, Chhattisgarh

---Respondents

For Petitioner	:	Shri Prakash Tiwari, Advocate
For State	:	Shri Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.11.2019

1. The basic challenge in this writ petition is to the order dated 20.08.2019 (Annexure P/2) and the consequential memo dated

27.08.2019 (Annexure P/1) issued by the respondents 4 & 5 respectively.

2. The case of the petitioner is that, the petitioner had been allotted fair price shops way back in the year, 2001 by the respondents and they were operating shops since then continuously and uninterruptedly. The contention of the counsel for the petitioner is that, the petitioner has engaged large number of employees who have become regular employees of the petitioner-establishment and who are solely dependent upon the fair price shops which are being run by the petitioner's agency. The fair price shops were allotted to the petitioner when in fact there was no specific limit of the number of fair price shops that a single agency could operate at a single time. However, under Chhattisgarh Public Distribution System (Control) Order, 2004 and the subsequent Control Order i.e. Chhattisgarh Public Distribution System (Control) Order, 2016, there is a cap put by the respondents so far as the number of fair price shops which could be operated by a single agency. The upper limit fixed by the State authorities in these two Control Orders are 3 fair price shops.
3. Admittedly, the petitioner-establishment has got more than 3 fair price shops operating in District Durg. The contention of the petitioner is that, since they were allotted these fair price shops at a time when there was no limit and now when the petitioner is asking to surrender the fair price shops over and above 3, an opportunity of hearing ought to have been granted to the petitioner so that they could have given their explanation in this regard. In the absence of which, the action on the part of the respondents in taking steps for

closure of the fair price shops of the petitioner in excess of 3 is bad in law.

4. Further contention of the petitioner is that, as a consequence of closing down of the fair price shops in excess of 3 so far as petitioner's society is concerned, that can have a far reaching adverse consequence on the employees engaged by the petitioner, as many of them would be rendered jobless which would not be in the larger public interest. Moreover, the contention of the petitioner is that, there is no allegation against the petitioner's society for having misused the fair price shops or having committed any breach of the orders passed by the State Govt. in the process of running fair price shops. This also should be born in mind by the authorities concerned before taking steps forcing the petitioner to close down fair price shops in excess of 3.
5. However, perusal of record would show that there does not seem to be any objection/appeal/representation made by the petitioner to any of the higher authorities in the department against the order dated 20.08.2019 (Annexure P/2) and memo dated 27.08.2019 (Annexure P/1). It is by now more than two months from the date the impugned order and the memo that have been issued.
6. Given the said facts, this Court is of the opinion that prima facie, the memo as well as the order do not seem to be in contravention to the Control Order of 2004 or for that matter the Control Order, 2016. However, since the petitioner was allotted these fair price shops even before Control Orders of 2004 and 2016 had come into force, it would be in the interest of justice if the petitioner is granted an

opportunity to approach the respondent No.1, the State Govt. as also the respondent No.4, the Commissioner, Civil Supplies and Consumer Protection Department by way of a representation/objection within a period of 10 days from the date of receipt of copy of this order. The respondents 1 & 4 thereafter shall consider the contents of the objection which the petitioner shall raise and take an appropriate decision taking the entire facts and circumstances of the case into consideration that the petitioner would raise in its objection/representation. It is expected that the authorities shall take a decision at the earliest.

7. Till the authorities take a final decision on the objection/representation, if any, filed by the petitioner within a period of 10 days from the date of receipt of copy of this order, it is directed that no coercive steps be taken against the petitioner arising out of Annexure P/1, dated 27.08.2019 and Annexure P/2, dated 20.08.2019.
8. With the aforesaid observations/directions, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge