

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 1478 of 2020**

Shriram Mahila Swa Sahayata Samuh Bilari- (क), Kasdol, Tehsil Kasdol, District Baloda Bazar Bhatapara Chhattisgarh, Through Its President Namely Smt. Sunita Paikra, W/o. Nand Kumar Paikra, Aged About 38 Years, R/o. Bilari- (क), Kasdol, Tehsil Kasdol, District Baloda Bazar Bhatapara Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Food Civil Supplies And Consumer Protection Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. Collector (Food), Baloda Bazar Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh
3. Sub Divisional Officer (Revenue), Kasdol, Tehsil Kasdol, District Baloda Bazar Bhatapara Chhattisgarh
4. Janpad Panchayat Kasdol, Through Its Chief Executive Officer, Janpad Panchayat Kasdol, District Baloda Bazar Bhatapara Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Manoj Paranjpe, Advocate along with Mr. Vivek Mishra, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

22/07/2020

1. The challenge in the present writ petition is to the order dated 17.06.2020 passed by the Sub-Divisional Officer (Revenue), Kasdol in Revenue Case No. 23/B-121/2019-20.
2. The grievance of the petitioner was that the petitioner, who was allotted a fair price shop at Bilari (क) under Janpad Panchayat Kasdol, District Baloda Bazar-Bhatapara, vide order dated 20.04.2020 on account of certain alleged irregularities the operation

of fair price shop run by the petitioner was placed under suspension. That as an interim measure the operation of the fair price shop was handed over to the Cooperative Society at Pisid.

3. Thereafter the Sub-Divisional Officer on 17.06.2020 in the course of finalization of the disciplinary action against the petitioner passed the impugned order holding that the license given to the petitioner stands cancelled on account of grave irregularities that he has committed and also taking note of the past misconduct. The Sub Divisional Officer thereafter has also fixed the case for further orders on 18.07.2020 and again on the said date, it has been adjourned.
4. The contention of the petitioner is that once when the order sheet reflects that the matter is pending before the Sub-Divisional Officer, the order passed on 17.06.2020 to the extent of cancellation of the license issued to the petitioner was totally uncalled for. That having canceled the license of the petitioner, nothing further remains for the Sub-Divisional Officer to decide in the matter on merits. Therefore also the order dated 17.06.2020, which appears to be more in the nature of an interim nature could not have been passed.
5. Learned State counsel however opposing the petition submits that the order dated 17.06.2020 is not an interim order, but rather is a final order. That the authority has reached to a conclusion that the petitioner's license deserves to be canceled for the serious defaults on his part and also the misconduct committed in the past. That the Authority further has ordered for allotment of the shop by way of fresh allotment to be made.
6. So far as keeping the matter pending before the Sub-Divisional Officer, the contention of the State counsel is that the same is only

on the technical reasons in respect of the certain fines or other dues which are recoverable from the petitioner. According to the state counsel the petitioner was in the past also penalised for defaults in operating the Fair Price Shop against which also the petitioner has preferred an appeal before the Appellate Authority i.e. the District Collector, Bhatapara.

7. The further contention of the learned Deputy Advocate General is that since in the earlier round of disciplinary proceedings, fine was imposed against the petitioner, the petitioner has availed the remedy of appeal before the District Collector. In the present case also the petitioner should avail the same alternative remedy of appeal before the District Collector challenging the order dated 17.06.2020. The State counsel further submits that if according to the petitioner the matter is pending before the Sub-Divisional Officer, then in the event if the Sub-Divisional Officer decides the matter in favour of the petitioner, the fair price shop would automatically stand restored in the name of the petitioner by virtue of the order passed by the Sub-Divisional Officer.
8. The State counsel further submits that in any case the petitioner was not operating the fair price shop in view of the order dated 20.04.2020 whereby the license of the petitioner was suspended and the interim arrangement was made for the operation of the fair price shop through the Cooperative Society, Pisid, therefore even if the arrangement that is ordered for vide the impugned order dated 17.06.2020, the petitioner is not going to get benefited as the fair price shop was otherwise also being operated by the Cooperative Society, Pisid.

9. Given the said submission made by the counsel appearing for the parties, this Court finds that the submission made by the learned State counsel has some force for the reason that in the order Annexure P/1 dated 17.06.2020 the wording used is that for the serious irregularities, the license of the petitioner stands cancelled and for the subsequent proceedings in respect of any recoveries if any to be made by the Government etc. the matter has been kept pending. Even otherwise, even if the contention of the learned counsel for the petitioner is to be accepted and the proceedings before the Sub-Divisional Officer is still pending for adjudication on merits, this Court on the basis of the submission made by the State counsel clarifies that any allotment of the said fair price shop, which was being run by the petitioner shall be subject to the outcome of the proceedings before the Sub-Divisional Officer i.e. to say if the proceedings finally stands decided in favour of the petitioner, the fair price shop would have to be restored back to the petitioner.
10. Needless to mention that if the contention of the State counsel that the order dated 17.06.2020 to the extent of canceling the license of the petitioner is to be accepted then the right of the petitioner stands reserved for challenging the same before the Appellate Authority under Clause 18 of the Control Order.
11. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved