

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1739 of 2020

1. Babulal Sandhe, S/o Shri Kanhaiya Lal Sandhe, Aged About 45 Years, R/o Village- Kanjiya, Post Kanjiya, Tahsil Bharatpur, P.S. Janakpur, District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Food And Civil Supplies Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
2. Collector Koriya, District- Koriya, (C.G.)
3. District Food Officer, Koriya, District- Koriya, (C.G.)
4. Sub Divisional Officer (Revenue) Bharatpur, District- Koriya, (C.G.)

---Respondents

For Petitioner	:	Mr. C. Jayant K. Rao, Advocate.
For Respondents-State	:	Mr. Siddharth Dubey, Dy. G. A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28.08.2020

1. The present writ petition has been filed challenging the action on the part of the respondents in issuing Annexure P-1 dated 11.05.2020; whereby the respondents vide the impugned order have suspended the operation of the Fair Price Shop of the petitioner, which was allotted to him invoking the provisions of Chhattisgarh Public Distribution System (control) Order 2016.
2. The counsel for the petitioner submits that before issuance of the order of suspension, the petitioner was issued with a show cause

notice on 09.05.2020 and was granted only two days time to file his response, which is too inadequate period for responding to the show cause notice. The authorities ought to have granted some reasonable period enabling the petitioner to effectively have given his reply. It is the further contention of the counsel for the petitioner that even after more-than three months time, the respondents have not proceeded any further on the order of suspension and, therefore, the efficacy of that order stands lost beyond the specific period prescribed under Clause 16 of the Control Order of 2016.

3. Opposing the petition, learned State counsel submits that action is contemplated under order Clause 16 of the Control Order of 2016 has been complied with in as much as the show cause notice was issued on 09.05.2020 and within two days and the operation of the Fair Price Shop operated by the petitioner was placed under suspension, therefore, it cannot be said that the provisions of Clause 16 of the Control Order of 2016 has been violated. He further he submits that the authorities have infact cancelled the allotment of the fair price shop of the petitioner on the 05-08-2020.
4. However when verified the name on which the order dt.05-08-2020 was issued was on some other societies name i.e. Ma Mahamaya Swah Sahayata Samuh. Though the ID no. seems to be that of the petitioner. This again has never been served upon the petitioner nor was he heard at any point before the said order was passed.

5. Having heard the contentions put forth on either side and on perusal of record, it would be relevant at this juncture to refer to Clause 16 of the Control Order of 2016, which for ready reference is reproduced here-in-under:-

“16. **Penalty** -(1) If the shopkeeper contravenes any provision of the agreement then he shall be liable for suspension or cancellation by the officer authorized for allotment of Fair Price Shop. The time limit for redressal of such cases shall not exceed three months.

(2) During inspection of the shop, if any irregularity is found, then without prejudice to any action the whole or part of the amount deposited by shopkeeper as security, shall be forfeited in favour of the State Government.

(3) Before cancellation of authority letter of Fair Price Shop or forfeiture of whole or part of security, Food Controller or Food Officer of the district or Sub-Divisional Officer of sub-division shall issue show cause notice to Fair Price Shopkeeper and after giving an appropriate opportunity of being heard shall decide within a period of a month from issuance of show cause notice.

(4) The inspection of Fair Price Shop and other agencies engaged in supply and distribution of essential commodities under Public Distribution System shall be done by the officers mentioned in sub-rule (2) of rule 13 of this order. If irregularities found against Fair Price Shop run by cooperative societies then inspecting officer shall communicate it to the Deputy Registrar/Assistant Registrar, Cooperative Societies, who shall send his report within 15 days to officer designated for allotment of Fair Price Shop. If the said Deputy Registrar/Assistant Registrar, Cooperative Societies does not submit his report within 15 days, then it will be presumed that the consent of Deputy Registrar/Assistant Registrar, Cooperative Societies is favourable and proposed action can be completed. ”

6. A plain reading of the aforesaid clause clearly reflects that the moment the authorities decided to initiate action under Clause 16 against the operator of Fair Price Shop, they are required to conclude the proceedings within a period of three months. The Clause specifically envisages that the time limit for redressal of such cases shall not exceed three months, which means from 11.05.2020

the respondent-authorities ought to have taken a decision on the order of suspension by the 11.08.2020.

7. From the submissions made by the counsel appearing on either side, what is undisputed is the fact that from the issuance of the order of suspension dated 11.05.2020, there does not seem to be any further proceedings drawn by the respondents for penalising the petitioner under Clause 16 except for placing him under suspension, and if at all any proceedings have been drawn it was at the back of the petitioner. Moreover the said order dt.05-08-2020 cannot be treated to be an order in respect of the petitioner as it was addressed to some other society.
8. Given the said facts and taking note of the fact that the period prescribed under Clause 16, this Court is of the firm view that the authorities are now barred from proceedings any further against the petitioner on the show cause notice and the order of suspension that was issued on 11.05.2020. As a consequence, the petitioner would be entitled to be restored back to his position for operating the Fair Price Shop as he was operating prior to the issuance of the order dated 11.05.2020. Needless to mention that in case, if the respondents are still aggrieved of the action, misappropriation or misconduct on the part of petitioner, under the Control Order 2016 they would still be at liberty to initiate further proceedings in accordance-with law, after giving a fair opportunity of defence to the petitioner.

9. With the aforesaid observation and direction, the writ petition is allowed and disposed off. The respondents are directed to restore back the position of the Fair Price Shop in favour of the petitioner with liberty to proceed in case if the respondents still want.

Sd/-
(P. Sam Koshy)
Judge

Rahul