

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1797 of 2020

1. Sahakari Vipnan Samiti Maryadit Gunderdehi Through - Its President Shri Pramod Kumar Jain S/o Shri Kavar Lal Jain, Aged About 55 Years, R/o Gunderdehi, Block And Police Station - Gunderdehi, District : Balod, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through - The Secretary, Department Of Food Supplies And Consumer Protection, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, District : Raipur, Chhattisgarh
2. The Director Of Food, Civil Supplies And Consumer Protection, Block 2, 3rd Floor, Indrawati Bhawan, Mantralaya, Atal Nagar, Raipur, 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, Mantralaya, Atal Nagar, Raipur, District : Raipur, Chhattisgarh
5. Food Controller, Balod, District : Balod, Chhattisgarh
6. The Sub Divisional Officer, Gunderdehi, District : Balod, Chhattisgarh

-----Respondents

For Petitioner	:	Mr. Anil S. Rajput, Advocate
For State	:	Mr. Anand Verma, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17.08.2020

1. Heard on I.A No. 01 of 2020, which is an application for exemption from filing typed copy of Annexure P-6. On due consideration, the same stands rejected.

2. The counsel for the petitioner submits that the default of typed copies, which are faint and illegible annexures have already been filed by him.
3. With the consent of the parties, the petition is heard on admission.
4. The grievance of the counsel for the petitioner in the present writ petition seems to be the memo issued by the respondents dated 03.07.2020 and 29.07.2020 Annexure P-1 (colly.) directing the petitioner to close-down all the Fair Price Shops under the petitioner's society. In addition, all three Fair Price Shops which are permissible as per the Chhattisgarh Public Distribution System Control order 2016. During the course of hearing, the counsel for the petitioner submits that the writ petition can be disposed off in similar terms as has been decided by this Court in the case of Durg Jila Thok Upbhokta Sahkari Bhandar vs. State of Chhattigarh and other connected writ petitions ie., WPC No. 3751 of 2019 and other analogous writ petitions decided on 21.10.2019.
5. The State counsel Shri Anand Verma, Dy. Govt. Advocate submits that the present writ petition can be disposed-off in similar terms as the facts are similar.
6. In view of the submissions made by the counsel for the petitioner, the present writ petition stands disposed off in similar terms.
7. The basic challenge in the writ petition is to the memo dated 03.07.2020 and 29.07.2020 P/1) issued by the respondent No. 6.
8. The case of the petitioner is that, the petitioner had been allotted fair price shop way back in the year, 2000 by the respondents and he was operating the shop since then continuously and uninterruptedly.

The contention of the petitioner is that, the petitioner has engaged large number of employees and who have become regular employees of the petitioner's 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 infact 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.

9. Admittedly, the petitioner has got more than 3 fair price shops operating in District Durg. The contention of the petitioner is that, since he was allotted these fair price shops at a time when there was no limit and now when he 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 he could be give his 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.

10. 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 them to close down his fair price shops in excess of 3.

11. 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 memo dated 03.07.2020 and 29.07.2020 (Annexure P/1). It is by now almost about one month from the date the impugned memos that have been issued.
12. Given the said facts, this court is of the opinion that prima facie the memos 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 No. 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 his objection/representation. It is expected that the authorities shall take a decision at the earliest.

13. 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 co-ercive steps be taken against the petitioner arising out of Annexure P/1, dated 03.07.2020 and 29.07.2020.

14. With the aforesaid observations/directions, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge