

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2092 of 2020**

Kewat Machuaa Female Self Help Group (Through Her President) Village
Ulkhari, Development Block Sarangarh, District Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh (Through Secretary, Directorate Of Food, Civil Supplies And Consumer Protection Department) Indravati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Sub Divisional Officer (Revenue) Sarangarh, District Raigarh, Chhattisgarh
3. Food Inspector Sarangarh, District Raigarh, Chhattisgarh
4. Collector (Food Branch) District Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Kishore Bhaduri, Advocate
For State	:	Mr. Sudeep Verma, Dy. GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/09/2020**

1. The challenge in the present writ petition is to the Annexure P-1 dated 19.08.2020 whereby the fair price shop allotted to the petitioner has been suspended and operation of the same has been allotted to a different agency.
2. According to the petitioner for an alleged irregularity the petitioner were issued with a show cause notice on 30.07.2018 (Annexure P-4) calling upon the petitioner to submit his reply by 10.08.2020 failing which appropriate cancellation/suspension proceedings would be drawn. The petitioner appeared before the authorities on 10.08.2020 but because of the effect of COVID-19 pandemic, proceedings before

the Sub Divisional Officer did not take place on the said date and vide a common notice all the matters listed on 10.08.2020 were ordered to be listed on 13.08.2020. Again for the same reason the matters which were to be taken up on 13.08.2020 got adjourned for 28.08.2020 which was again adjourned for 09.09.2020 on account of previous date being declared as a holiday. Meanwhile, the impugned order Annexure P-1 has been passed placing the fair price shop with the petitioner under suspension and the operation of the shop being given to the another agency.

3. From the fair perusal of the proceedings and the documents enclosed along with the writ petition particularly the documents referred to it appears that on the show cause notice which was issued on 30.07.2020 no proceedings as such has been effectively drawn except for the notice of adjournment.
4. It would be trite at this juncture to mention that once when a show cause notice has been issued on 30.07.2020 whereby an explanation was called from the petitioners clearly suggesting that failing to give a reply appropriate suspension or cancellation proceedings may be drawn. Under said circumstances it was incumbent upon the concerned Sub Divisional Officer(Revenue) to have taken a proceeding to a logical conclusion and reach to a specific finding of the petitioner being responsible for any irregularity, if any. Having not done so and before concluding the proceedings on the show cause notice initiated, issuance of abrupt order of suspension would be passing of an order before conclusion of proceedings.
5. State counsel at this juncture opposing the petition submits that plain reading of Annexure P-1 would reveal that same has been on the

basis of a report submitted by concerned Food Inspector and moreover, it is only a suspension order the proceedings are yet to be concluded which shall be done in accordance with the provisions governing the field. True it is that the authorities have the power to place a particular shop under suspension provided there are prima facie, materials for the same.

6. Plain reading of Annexure P-4 dated 30.07.2020 reflects that it was on the basis of some alleged complaints and for which the petitioners were called upon to explain and explanation was also called to verify whether there is a justifiable grounds available with the petitioners and only then after due verification, appropriate decision for suspension or cancellation was proposed having issued a show cause notice.
7. Under the circumstances, the authorities ought to have taken it to logical conclusion on issuance of show cause notice dated 30.07.2020 the impugned order being passed without there being any proceedings drawn on the show cause notice would amount to taking a decision in haste and with a predetermined mind.
8. It would be relevant at this juncture to refer to the judgment of the Supreme Court in the case of **Nisha Devi Vs. State of Himachal Pradesh & Others, 2014 16 SCC 392** wherein in paragraph 5 it has been held as under :-

“5. Trite though it is, we may yet again reiterate that the principle of audi alteram partem admits of no exception, and demands to be adhered to in all circumstances. In other words, before arriving at any decision which has serious implications and consequences to any person, such person must be heard in his defence. We find that the High Court did not notice the violation

and infraction of this salutary principle of law. Accordingly, on this short ground, the impugned Judgments and Orders require to be set aside, and are so done. The matter is remanded back to the Divisional Commissioner for taking a fresh decision after giving due notice to the Appellant and affording her an opportunity of being heard. The Divisional Magistrate, Kullu, shall complete the proceedings expeditiously, and not later than six months from the date on which a copy of this Order is served on him.”

9. Keeping in view the aforesaid judgment of the Supreme Court and also taking note of the documents Annexure P-4 to P-7 which establishes that proceedings on the show cause notice have not yet commenced, this Court is of the opinion that the order of suspension at this juncture is bad in law, arbitrary and is also illegal and the same accordingly stands set aside and matter stands remitted back to the Sub Divisional Officer (Revenue) to proceed further with the show cause notice and after granting a fair and reasonable opportunity of hearing to the petitioner appropriate decision be taken. As a consequence, the impugned order Annexure P-1 stands set aside/quashed and position as it stood prior to Annexure P-1 dated 19.08.2020 was passed, be restored till a final decision is taken by the SDO on the show cause proceedings initiated by him.
10. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge