

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 2738 of 2020**

- Shankar Dubey S/o Shri Santosh Dubey Aged About 25 Years Sanchalak Of Akash Primary Cooperative Upbhokta Bhandar/ Operator Of Govt. Fair Price Shop Khubchand Baghel Ward No. 68 Raipur, District Raipur, I.D. No. 441001158

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Food And Civil Supply Mahanadi Bhawan New Raipur, District -Raipur, Chhattisgarh
2. The Collector (Food Department) Raipur District Raipur, Chhattisgarh
3. The Food Controller Raipur District Raipur, Chhattisgarh
4. President/Seller Of Jai Santoshi Ma Primary Cooperative Upbhokta Bhandar/inchare Operator Of Govt. Fair Price Shop Khubchand Baghel Ward No. 68 Raipur, District Raipur I.D.No. 44100039, District : Raipur, Chhattisgarh

**---- Respondents**


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For Petitioner : Shri A.N. Pandey, Advocate

For State : Ms. Richa Shukla, Dy. G.A.

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**Hon'ble Shri Justice Goutam Bhaduri****Order On Board****24.11.2020**

Heard

1. The instant petition is filed against the order dated 09.10.2020, whereby the fair price shop allotted to the petitioner was cancelled and attached with Respondent No. 4.
2. Learned counsel for the petitioner would submit that the order was passed on 09.10.2020 (Annexure P-1) by the Food Controller, District Raipur on the ground that they have not followed the guidelines issued under the pandemic. It is contended that the said order was passed without giving any opportunity of hearing to the petitioner which would be evident from the

show cause notice dated 20.10.2020 (Annexure P-4) which is issued after the order of suspension of the fair price shop was passed, thereby before the petitioner was heard the suspension order was passed. Therefore, the order is bad in law and was passed without giving any opportunity of hearing to the petitioner.

3. Learned State counsel would submit that the petitioner has remedy to file an appeal before the Collector and all the factual aspect can be gone into.
4. Perusal of order dated 09.10.2020 (Annexure P-1) shows that suspension of fair price shop was on the ground that the petitioner has not followed the guidelines of C.G. Public Distribution System (Control) Order 2016 and has violated the clause 5 (24), 11 (11) and 15.
5. Clause 5 (24) of the C.G. Public Distribution System (Control) Order 2016 reads as under:-

( 24) Fair Price Shop owner shall distribute ration commodities to the ration cardholders as per the quantity and procedure determined by the State Government or Director, Food, Civil Supplies and Consumer Protection Department.

6. Clause 11 (11) of the C.G. Public Distribution System (Control) Order 2016 reads as under:-

(11) Fair Price Shopkeepers shall ensure compliance of all the instructions under Public Distribution System issued by the State Government, Director, Food, Civil Supplies and Consumer Protection Department or Collector, from time to time.

7. Clause 15 of the C.G. Public Distribution System (Control) Order 2016 reads as under:-

15. Compliance of instructions:- Fair Price Shopkeeper shall comply with the instructions issued by the State Government, Director, Food, Civil Supplies and Consumer Protection Department or the Collector from time to time.

8. Reading of Annexure P-1 shows that the fair price shop was suspended on 09.10.2020, however, a show cause notice dated 20.10.2020 (Annexure P-4) whereby the ground of suspension as shown in the order was issued to the petitioner and the petitioner was given a date for appearance and asked to show cause as to why the order may not be passed for cancellation of the Shop. The show cause notice purports that the complaint was under the same Clause 5 (24), 11 (11) and 15 of Public Distribution Order 2016. Apparently, it appears that after the order was passed and subsequent to it the show cause notice was issued on the same ground on which suspension order was issued. Meaning thereby before the orders were passed the petitioner was not at all heard which was subsequently tried to be supplemented by the show cause notice dated 20.10.2020. Under the circumstances, there is flagrant violation of rules of natural justice on the face of the record. It is not expected that after the orders have passed then hearing has to be given, if such analogy is followed then the Court would convict a person before commencement of the trial and then hold the trial. This analogy completely offends the principles of natural justice. *Prima facie*, it appears that ab initio illegal orders has been issued by the authority, under the circumstances order dated 09.10.2020 (Annexure P-1) is set aside.

9. Accordingly, the petition stands allowed.

Sd/-  
(Goutam Bhaduri)  
Judge