

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.1385 of 2019

- Dinesh Kumar Netam S/o Hajara Netam Aged About 54 Years Seller, Government Fair Price Shop, Pendrawan, Baderajpur, District Kondagaon Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Collector, Kondagaon, District Kondagaon Chhattisgarh

---- Respondent

For Petitioner : Mr. D.N. Prajapati, Advocate.

For respondent : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

20-01-2020

Heard.

1. This Criminal Revision has been brought being aggrieved by the judgment dated 15.10.2019 passed by the Court of Additional Sessions Judge, Kondagaon, District- Kondagaon, C.G., dismissing the Criminal Appeal No.11/2019.
2. It is submitted by the learned counsel for the applicant that the applicant works as salesman in Government fair price shop, Village- Pendrawan, Baderajpur, District- Kondagaon, C.G. Food Inspector made an inspection of the fair price shop and submitted a report vide annexure-A/3 showing shortage of 31.5 quintals of rice in the stock for which the applicant was held responsible. The inquiry was initiated by Sub-Divisional Officer on the basis of this report. Surprisingly, the order Dated 04.09.2019 vide annexure-A/6 was passed in which the shortage

of rice was shown to be 67.5 quintals without any basis and the applicant has been ordered to make payment for the same on the basis of market price. The applicant challenged this order in Revenue Appeal No.06/C-150/2018-19 which was disposed off vide order dated 17.01.2019 and the order of S.D.O. was upheld and the Criminal Appeal filed against this order has also been dismissed by the impugned order.

3. Further, it is submitted that the order of S.D.O. which has been affirmed by the Collector and also by the appellate Court, all are erroneous and against the facts and circumstances of the case. The shortage of rice which was initially found to be 31.5 quintals by the Food Inspector has been enhanced without any reason. Therefore, it is submitted that the order impugned and other orders are illegal, incorrect and improper which may be set aside.
4. Learned counsel for the State opposes the submissions and submits that Food Inspector had given the initial report on the basis of stock verification which showed shortage for the period between February 2016 to April 2017, whereas in the inquiry, it was found that the shortage of rice occurred from April 2015 to April 2017, therefore, the duration that was pointed out in the report of the Food Inspector and in the inquiry had a difference and because of the difference, the further shortage has been found for which the applicant is the person responsible. The finding is based on the facts and documentary evidence which the applicant cannot deny at this stage. Hence, this revision petition is without any substance which may be dismissed.
5. Heard counsel for both the parties and perused the documents.
6. On perusal of the record of the Inquiry Case No.77/B-121/2016-17 before the S.D.O. (Revenue), Keshkal, it is reflected that the inquiry was initiated on the basis of the report of Food Inspector which showed shortage of 31.5 quintals rice between the period of February 2016 to

April 2017. The applicant was given a notice on 03.08.2017 to show cause regarding the shortage of 31.5 quintals rice in the fair price shop, where he was the salesman.

7. The applicant in reply given to the notice admitted his responsibility and proposed to compensate for the loss along with apology rendered by him. In the inquiry made, another report was submitted by the Food Inspector showing that the shortage in stock started occurring from April 2015 and the total shortage was of 67.5 quintals.
8. On perusal of the documents present in the record of inquiry, it is found that any separate notice was not issued to the applicant demanding explanation for the shortage of 67.5 quintals of rice in the fair price shop starting from the period of April 2015 uptill April 2017. Therefore, it can be said that the applicant was not given any opportunity to accept, challenge or rebut the subsequent report filed by the Food Inspector. The record also does not reflect that the applicant was asked to submit any additional reply given by the applicant explaining the shortage of 67.5 quintals of rice in the fair price shop.
9. When any inquiry is conducted, it has to be conducted after following the principle of natural justice and in this particular case, it is very clearly observed that the applicant had admitted his responsibility for shortage of 31.5 quintals of rice only, whereas he has been held responsible for shortage of 67.5 quintals of rice without affording him any opportunity to explain the further shortage. Therefore, the impugned order and the orders passed by the authorities below suffer from infirmity which needs interference by this revision petition.
10. The petition is allowed, the impugned order and the orders of the authorities below are set aside. The inquiry against the applicant before the S.D.O. Keshkal, District- Kondagaon, C.G. is restored to this file and it is directed that the inquiry be further conducted against the applicant

on the basis of the additional report submitted by the Food Inspector by giving him opportunity to explain and if necessary opportunity to produce the evidence in that respect. This petition stands disposed off accordingly with the observations made hereinabove.

11. Accordingly, the petition stands disposed off.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge