

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 486 of 2021

- Maa Kalyani Devi, Khadya Avam Upbhokta Seva, Sahkari Samiti Maryadit Akhrar Through President Arun Kumar Son Of Manohar Lal, Aged About 59 Years, R/o Village Akhrar, Tahsil Lormi, District Mungeli (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Food, Civil Supply And Consumer Protection, Mantralaya, Mahanadi Bhavan, Capital Complex, New Raipur, Atal Nagar, District Raipur, Chhattisgarh.
2. The Collector Mungeli, District Mungeli (Chhattisgarh)
3. Sub Divisional Officer (Revenue) Lormi, District Mungeli (Chhattisgarh)
4. Jai Maa Vaibhav Laxmi Swa Sahayata Samuh Akhrar, Through Its President Smt. Sageera Khan W/o Uttam Khan, R/o Village Akhrar, Tahsil Lormi, District Mungeli (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Arvind Kumar Shukla, Advocate
For Respondent/ State	:	Ms. Sunita Jain, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04.02.2021

Heard.

1. The present writ petition has been filed against the cancellation of the allotment of the Fair Price Shop to the respondent No. 4 under the Chhattisgarh Public Distribution System (Control) Order, 2016 [henceforth 'Control Order, 2016'].
2. Learned counsel for the petitioner submits that against such order, the petitioner has preferred an appeal as provided under Rule 18(1) of the Control Order, 2016 as he was also one of the contender for the allotment of the Fair Price Shop however, the said appeal was dismissed on the ground

that the order of the allotment has been made by the Collector therefore, the appeal to the Collector would not lie. The Rule 18(1) of the Control Order, 2016 reads as under:-

“18. Appeal.-(1) Any person aggrieved by any order of designated officer, denying the allotment of Fair Price Shop, issue or renewal of a ration card or cancellation of the ration card, may appeal to the Collector/ Additional Collector within a period of 30 days from the date of receipt of the order.”

3. Perused the Rule. Perusal of the Rule 18(1) of the Control Order, 2016 itself gives the right to file an appeal before the Collector or Additional Collector therefore the appeal cannot be dismissed on the ground that the order of allotment of the Fair Price Shop has already been made on the approval of the Collector. The impugned order since has been passed by the Collector District Mungeli, in such case, the right of appeal which has been given by the Control Order, 2016 cannot be suppressed or by-passed on those ground alone without consideration on merits. Consequently, the order dated 07.12.2020 is set-aside.
4. Since the Collector Mungeli would be the appellate authority and the impugned order has been passed on the ground that the allotment order has been approved by the Collector, then again sending back the petitioner to the Collector Mungeli would amount to prejudice to the interest of the petitioner as certainly there would be a predetermination of the issue before it is heard for all practical purpose. Consequently, it is directed that the appeal is restored to its original number and would stand transferred before the Collector Bilaspur who will adjudicate the appeal in accordance with law.
5. Accordingly, the writ petition stands dismissed.

Sd/-
(Goutam Bhaduri)
Judge