

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 907 of 2021**

- Kiran Swa Sahayata Samuh Through President Pushplata Verma W/o Jagmohan Verma, Aged About 40 Years, R/o Village Surjidihi, Post Limtara, Block Dhamdha, District Durg (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Women And Child Development, Secretariat, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur (Chhattisgarh)
2. Collector, (Women And Child Development Department) District Durg (Chhattisgarh)
3. The District Programme Officer, Women And Child Development, Durg (Chhattisgarh)
4. The Project Officer, Dhamdha, District Durg (Chhattisgarh)

---- Respondents

For Petitioner : Shri T.K. Jha, Advocate

For Respondents/State : Shri Akash Pandey, PL

Hon'ble Shri Justice Goutam Bhaduri**Order****26/02/2021**

1. Heard.
2. Learned counsel for the petitioner would submit that the petitioner society was supplying the ready to eat food material to different centers pursuant to the agreement executed with respondent No.4. He would further submit that in certain food material the contents of the protein was found 10.60% and according to the State it should have been more, therefore, the show-cause

notice was served to the petitioner society on 19.01.2021 (Annexure P-4) and the explanation was called for and on the same day the suspension was made by order dated 19.01.2021 (Annexure P-1). He would further submit that the agreement provides that in case of such minor deviation in the protein content, it would be adjusted in the payment as per clause (8) of the agreement and since the petitioner was served with a show-cause notice on 19.01.2021 on the same day, the suspension was made virtually without giving any opportunity of hearing despite the fact that the protein contents in the food was 10.60% which was not a severe deviation from 11.21% suspension was passed. He would therefore, submit that the suspension of the like nature would be prejudicial and illegal.

3. Per contra, learned State counsel would submit that the agreement for supply of ready to eat food material was initially executed in the year 2015 for three years and maximum it could have been extended to further two years and accordingly the agreement came to an end on 18.11.2020 with the petitioner, therefore, till the new agreement is being arrived, the petitioner was allowed to supply the ready to eat food material as a stop gap arrangement. Consequently, when it was found that the protein contents in the food material was of substandard quality, the contract was suspended and the petitioner was directed to appear before the authorities and according to the scheme the petitioner could have filed the appeal before the Collector against the final order and thereafter can file the second appeal before the Commissioner.
4. I have heard learned counsel for the parties and perused the documents.
5. After going through the order dated 19.01.2021 it appears that when the ready to eat food material was tested and the protein was found less, immediately the

suspension order was passed and the petitioner was given 10 days time to place their side. Since the petitioner society is being given the opportunity to appear before the authority i.e. the District Programme Officer, women and child development, the petitioner can put forth their case before the authority. Therefore, this Court will not substitute its opinion when the final judgment still is open according to Annexure P-1. In view of this, the petitioner may approach to the District Programme Officer, Women and Child Development pursuant to notice Annexure P-1 and may substantiate their stand. Accordingly, at this stage, I do not want to make any comment on the merit as to whether the protein percentage was within the permissible limit or not? Accordingly, the petitioner shall appear before the District Programme Officer i.e. the respondent No.3 on 03.03.2021 and the said authority thereafter shall hear the petitioner and decide their case within a period of two weeks.

6. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu