

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1190 of 2021

Pragati Mahila Swa Sahayata Samuh, Kurmibhauna, Through Its President Smt. Pushpa Behra W/o Shri Dambodar Behra Aged About 32 Years R/o Village Kurmibhauna Tahsil Gharghoda District Raigarh Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Food, Civil Supplies And Consumer Protection Mahanadi Bhawan Mantralaya, New Raipur, Atal Nagar District Raipur Chhattisgarh.
2. Collector Raigarh, District Raigarh, Chhattisgarh
3. Sub Divisional Officer (Revenue) Gharghoda District Raigarh Chhattisgarh.
4. Food Inspector Gharghoda District Raigarh Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Ashutosh Mishra, Advocate
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For State	:	Shri Aditya Tiwari, Panel Lawyer
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Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02.03.2021

Heard

1. Learned counsel for the petitioner submits that the instant petition is against the order dated 08.02.2021 wherein interim application filed on an appeal under Order 18 of the Chhattisgarh Public Distribution System (Control) Order 2016 was dismissed. He would submit that the dismissal is primarily on the ground that no reply of the show cause notice was filed by the petitioner. He would submit that as per the record, the show cause notice was issued on 10.12.2020 which is Annexure P-4 and the margin of it shows that it was received on 14.12.2020 and 7 days time was granted, which would end on 21/22.12.2020. Whereas before such reply was filed, the cancellation of the fair price shop was passed on 17.12.2020. Therefore, the order of the Collector is factually on the wrong premises which needs to be

corrected.

2. State counsel would submit that the order impugned dated 08.02.2021 is not on the sole premise that the show cause notice was not filed, it was after the complaint, the enquiry was made and the order was passed.
3. Perusal of the order dated 08.02.2021 would show that initially a complaint was filed. The order reads that initially when the complaint was filed, after the preliminary enquiry, the show cause notice was issued. The order categorically reflect that reply to show cause notice was not filed, whereas the show cause notice was issued on 10.12.2020 and received on 14.12.2020 which reflects that 7 days time was granted to file the reply. However, the cancellation of the fair price shop was passed on 17.12.2020. It appears that the S.D.O. was under undue haste to pass the order even before the time given to the petitioner had not lapsed. Therefore, it cannot be stated that the petitioner has not replied to the show cause notice as prima facie it appears before the time to show cause notice had lapsed, the cancellation order was passed.
4. Under the circumstances, the order dated 08.02.2021 being factually wrong cannot be sustained. Since the appeal has already been preferred against the cancellation, the Collector shall look into the facts being in seisin. Therefore, it is directed that till the appeal is decided on merit by the Collector, the cancellation order passed by the S.D.O. shall remain stayed. Hopefully as appears the S.D.O. would be agile enough to take quick decision over the other revenue cases pending before him as done in the instant case.
5. In view of the above, the petition is allowed to the above extent.

Sd/-
(Goutam Bhaduri)
Judge