

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 3166 of 2020**

- Maa Rahan Mahila Swa Sahayta Samooh Aachhidongari Through Its President Smt. Kalawati Burman W/o Shri Roshan Lal Burman, Aged About 39 Years, R/o Village Chhirhutti, Thana And Tahsil Lormi, Civil And Revenue District Mungeli Chhattisgarh **---- Petitioner**

**Versus**

1. The State Of Chhattisgarh Through Secretary, Department Of Food, Civil Supply And Consumer Protection, Mantralaya Mahanadi Bhawan, Capital Complex New Raipur, District Raipur Chhattisgarh
2. Collector Mungeli, District Mungeli Chhattisgarh
3. Sub Divisional Officer (Revenue) Lormi, District Mungeli Chhattisgarh.,
4. Dr. Bhimrao Ambedkar Mahila Swa Sahayta Samooh Chhirhutti Through Its, President Smt. Pradeep Bai Banjare, R/o Village Chhirhutti, Thana And Tahsil Lormi, Civil And Revenue District Mungeli Chhattisgarh

**---- Respondents**


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| For Petitioner | : | Mr. Sunil Sahu, Advocate |
| For State      | : | Mr. Gagan Tiwari, G.A.   |

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**Hon'ble Shri Justice Goutam Bhaduri****Order****04.01.2021**

1. Heard.
2. 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'].
3. 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.”

4. 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 23.11.2020 is set-aside.
5. 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.

6. Accordingly, the writ petition stands dismissed.

sd/-  
**Goutam Bhaduri**  
**Judge**

Vishakha