



CGHC010158942023 2026:CGHC:45118

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2258 of 2023

1 - Smt. Dulesh Kariyam W/o Ram Singh Aged About 52 Years Sarpanch, Gram Panchayat, Chirmi, Block- Khadgawan, District- Korea, Chhattisgarh

... Petitioner

versus

1 - State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur, Atal Nagar, District- Raipur, Chhattisgarh

2 - The Collector, Baikunthpur District- Korea, Chhattisgarh

3 - The Food Officer District- Korea, Chhattisgarh

4 - The Sub-Divisional Officer (Revenue), Baikunthpur District- Korea, Chhattisgarh

... Respondents

For Petitioner	**:**	Mr. Vijay Kumar Sahu, Advocate
For State	**:**	Mr. Anmol Sharma, PL

Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

26/10/2026

1. By filing the present writ petition under Article 226 of the Constitution of India, the petitioner has called in question the legality, validity and propriety of the orders dated 27.03.2023 and 24.04.2023, whereby respondent No.4/Sub-Divisional Officer (Revenue) directed recovery of

a sum of Rs.15,80,763.56/- from the petitioner on account of alleged shortage of food grains in the Government Fair Price Shop, Chirmi, bearing I.D. No.532004022. The petitioner has prayed for following relief(s):-

> *"10.1 That, this Hon'ble Court may kindly be pleased to call the entire records pertaining to case of petitioner.*
> *10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ, thereby setting-aside/quashing the impugned orders dated 27.03.2023 & 24.04.2023 (Annexure P/1).*
> *10.3 That, any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the costs of the petition may be given."*

2. Briefly stated, the facts of the case are that the petitioner, who was managing the aforesaid Government Fair Price Shop, has challenged the recovery orders mainly on the ground that the same have been passed without affording an effective opportunity of hearing and without conducting any proper enquiry in accordance with the provisions of the Chhattisgarh Public Distribution System (Control) Order, 2016. It is the case of the petitioner that the alleged shortage was determined on the basis of physical verification, but neither the physical verification report nor the Panchnama was supplied to her and no proper proceedings were conducted before fastening the liability upon her. Being aggrieved by the

aforesaid orders, the petitioner has invoked the extraordinary writ jurisdiction of this Court.

3. Learned counsel appearing for the petitioner submits that the impugned recovery orders are arbitrary, illegal and unsustainable in law, having been passed without affording an effective opportunity of hearing to the petitioner. It is contended that no proper enquiry was conducted before fastening the liability upon the petitioner and that the alleged shortage of food grains has been determined merely on the basis of physical verification, the report whereof was never supplied to the petitioner. He would further submit that the impugned orders have been passed in complete violation of the principles of natural justice and the procedure prescribed under the Chhattisgarh Public Distribution System (Control) Order, 2016. It is submitted that neither any evidence was recorded nor the petitioner was afforded an effective opportunity to controvert the alleged shortage or the material relied upon by the authorities. It is, therefore, contended that the availability of an alternative remedy would not operate as a bar to the maintainability of the present writ petition, particularly when the impugned orders have allegedly been passed in violation of the principles of natural justice.

4. *Per contra*, learned State counsel opposes the writ petition and supports the impugned orders. It is submitted that the writ petition is not maintainable in view of the efficacious statutory remedy of appeal available under Clause 18 of the Chhattisgarh Public Distribution System (Control) Order, 2016, which the petitioner has failed to avail. It is further submitted that during physical verification of the Fair Price Shop,

shortage of food grains was detected and a Panchnama was prepared. Thereafter, a show-cause notice dated 09.12.2022 was issued to the petitioner, calling upon her to submit her explanation, and the petitioner subsequently submitted her reply. The said explanation was found unsatisfactory and, thereafter, the impugned recovery order dated 27.03.2023 was passed. It is thus submitted that sufficient opportunity was afforded to the petitioner and the allegations of violation of principles of natural justice are unfounded. He would further submit that the petitioner was managing the affairs of the Fair Price Shop and the shortage was detected during physical verification. Despite being called upon to explain the shortage and to produce relevant documents showing that the alleged shortage had been compensated, the petitioner failed to furnish satisfactory material in support of her explanation. It is, therefore, submitted that the impugned orders have been passed in accordance with law and, in any event, the petitioner has an efficacious alternative remedy of appeal, which he has failed to exhaust.

5. I have heard learned counsel for the parties at length and perused the pleadings of the parties and the documents brought on record.

6. From a perusal of the order-sheet dated 15.06.2023, it transpires that while entertaining the writ petition, the Coordinate Bench of this Court had recorded a *prima facie* finding that the State was not in a position to demonstrate whether an effective opportunity of hearing had been afforded to the petitioner before passing of the impugned recovery orders. The Coordinate Bench also took note of the specific contention of the petitioner that no preliminary enquiry had been conducted before

fastening liability upon her. Being *prima facie* satisfied that the petitioner had made out a strong case for grant of interim protection, the Coordinate Bench admitted the writ petition and stayed the recovery proceedings initiated pursuant to the impugned orders, which interim protection continued during the pendency of the present writ petition.

7. Having given anxious consideration to the rival submissions and upon careful examination of the material available on record, it seems that although the respondents have sought to justify the recovery proceedings by placing reliance upon the physical verification report, Panchnama and show-cause notice dated 09.12.2022, the records do not satisfactorily demonstrate that a comprehensive enquiry, in conformity with the requirements of Clause 16 of the Chhattisgarh Public Distribution System (Control) Order, 2016, was conducted before determining the petitioner's liability.

8. The principles of natural justice are not empty formalities. Whenever civil consequences ensue by way of recovery of public money or determination of liability against a person, the authority concerned is duty-bound to conduct a fair, transparent and meaningful enquiry by affording an adequate opportunity to the affected person. Such opportunity necessarily includes disclosure of the material sought to be relied upon, permitting the petitioner to controvert the allegations, adducing evidence, examining relevant witnesses wherever necessary and thereafter recording reasoned findings based upon the evidence available on record.

9. The principles of natural justice have been dealt with by the Hon'ble Supreme Court in 'n' number of cases, holding that the same must be strictly adhered to. In the matter of ***Aureliano Fernandes*** *v.* ***State of Goa and others, (2024) 1 SCC 632,*** the Hon'ble Supreme Court observed as under:

> ***"35.*** *Principles of natural justice that are reflected in Article 311, are not an empty incantation. They form the very bedrock of Article 14 and any violation of these principles tantamounts to a violation of Article 14 of the Constitution. Denial of the principles of natural justice to a public servant can invalidate a decision taken on the ground that it is hit by the vice of arbitrariness and would result in depriving a public servant of equal protection of law.*
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> ***36.*** *Article 14, often described as the "Constitutional Guardian" of the principles of natural justice, expressly forbids the State, as defined in Article 12, from denying to any person, equality before the law or equal protection of the laws. Article 14 provides an express guarantee of equality before the law to all persons and extends a protection to them against discrimination by any law. Article 13(3)(a) defines "law" to include any ordinance, order, bye-law, rule, regulation, notification, custom or usages having in the territory of India, the force of law. Thus, principles of natural justice guaranteed under Article 14, prohibit a decision-making adjudicatory authority from taking any arbitrary action, be it substantive or procedural in nature. These principles of natural justice, that are a natural law, have evolved over a period of time and been continuously refined through the process of expansive judicial interpretation."*

10. In the matter of ***State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow*** *v.* ***Ram Prakash Singh, 2025***

SCC OnLine SC 891, the Hon'ble Supreme Court reiterated the aforesaid principle and held as under:

> *"**38.** Thus, the right to receive the enquiry report as a fundamental safeguard in disciplinary proceedings, where such report holds the charges against the delinquent employee to be established, was firmly entrenched by the Constitution Bench in the jurisprudence relating to proceedings initiated for disciplinary action for misconduct. This valuable right applies uniformly, regardless of who the employer is (Government, public or private) and regardless of what the rules governing the service ordain. Even if the rules are silent or do not require furnishing of the enquiry report, the same has to be furnished. Additionally, the report must be furnished to the employee even without a request, as it forms an integral part of ensuring a fair and reasonable opportunity to defend against the charges. By not furnishing the report, an employer cannot scuttle the rights of the delinquent employee.*
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> ***42.** Be that as it may, the question that troubles us is this : does the law laid down while answering incidental questions have the effect of overriding or prevailing over or modifying the law declared on the main issue by the Constitution Bench? Questions (v), (vi) and (vii) framed by the Constitution Bench in B. Karunakar (supra), to our mind, were necessitated because of the error/anomaly that was noticed in the ultimate direction in Mohd. Ramzan Khan (supra). As we read and understand the law laid down in B. Karunakar (supra), the answers to questions (v), (vi) and (vii) were intended to have limited application, that is, to matters which were already pending before this Court or before the high courts as on date the Constitution Bench rendered its decision, where the challenge was laid to punishment orders passed, both prior to and post November 20, 1990, i.e., the day when Mohd. Rizwan Khan (supra) was decided. And the answer to question (i), which was to apply prospectively, was intended to guide decisions in future cases making it imperative that the employer has to furnish such report to the delinquent employee, no*

matter who the employer is, what the rules say or whether the delinquent employee asks for it. Whatever be the legal (non) requirement or the factual position, the report has to be furnished. That is the law. The report has to be furnished because it is an integral part of natural justice and consideration of the report behind the back of the delinquent employee would effectively deprive him of the protective shield of 'reasonable opportunity to defend' the charges. We are anchored in our conviction that any other interpretation of the Constitution Bench decision would result in diluting the law declared therein.

52. *We now sum up our understanding of the law declared in B. Karunakar (supra) and answer the four questions delineated in paragraph 26 (supra) compositely. Reading the declaration of law by the Constitution Bench regarding the imperative need to furnish the report of enquiry to the delinquent employee even when : (i) the relevant statutory rules are silent or against it, (ii) the punishment to be imposed is other than the punishment referred to in clause (2) of Article 311 of the Constitution, (iii) the employee does not ask for it, and (iv) the burden is cast on a private employer too, and the law requiring furnishing of the report being made to operate prospectively from the date the decision in Mohd. Ramzan Khan (supra) was rendered, thereby reinforcing the legal position that prevailed after the GoI Act was enacted but became unsettled later, there can be no two opinions that on and from 20th November, 1990 [i.e., when Mohd. Ramzan Khan (supra) was decided] it is the mandatory requirement of law that the report of enquiry has to be furnished to the delinquent employee. Taking a cue from S.K. Sharma (supra), we are inclined to the view that the requirement of furnishing the report of enquiry, though procedural, is of a mandatory character and the bogey argument of the employer to apply the test of 'prejudice' when the report of enquiry is not furnished cannot be of any avail to thwart the challenge of the delinquent employee. Such test could call for application, if from the facts and circumstances, it can be established that the delinquent employee waived his*

right to have the report furnished. Should satisfactory explanation be not proffered by the employer for its failure/omission/neglect to furnish the enquiry report, that ought to be sufficient for invalidating the proceedings and directing resumption from the stage of furnishing the report. No proof of prejudice for breach of a statutory rule or the principles of natural justice and fair play need be proved, unless there is a waiver, either express or by conduct, to of the right to receive the report. And, it is only in specific and not in all circumstances that proof of 'prejudice' ought to be insisted upon.

11. Similarly, in ***Sabitri Dey alias Swasthi Dey and Others*** *v.* ***Union of India and Others, 2026 SCC OnLine SC 1312,*** the Hon'ble Supreme Court reaffirmed the aforesaid position of law and observed as under:

> ***"25.*** *The principle of audi alteram partem, which literally means that the other side must be heard, is one of the two great limbs of natural justice. It is often expressed in the maxim that no person shall be condemned unheard. Its moral foundation was famously explained in Cooper v. Wandsworth Board of Works (1863) 14 CB (NS) 180, where the Court emphasised that even where a statute is silent, a person whose rights or interests are likely to be affected must ordinarily be afforded an opportunity of being heard. The principle is, therefore, not a mere rule of technical procedure. It is a rule of fair play in action.*
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> ***26.*** *This Court has repeatedly emphasised that the rules of natural justice are meant to secure justice and to prevent miscarriage of justice. In A.K. Kraipak v. Union of India (1969) 2 SCC 262, this Court explained that these rules do not supplant the law, but supplement it, and that their application depends upon the framework of the statute and the nature of the power being exercised. The said principle squarely applies to proceedings before the Foreigners Tribunal, which exercises quasi-judicial functions and returns an opinion carrying serious civil consequences.*

> ***27.*** *In Canara Bank v. Debasis Das (2003) 4 SCC 557, this Court explained that adherence to natural justice is of supreme importance where a quasi-judicial body determines disputes or where administrative action involving civil consequences is undertaken. The Court further emphasised that notice is the first limb of the rule of audi alteram partem. A notice must be precise and must reasonably apprise the person of the case which he or she has to meet"*

12. In the present case, this Court finds that the competent authority has proceeded to fasten monetary liability of Rs.15,80,763.56/- upon the petitioner without undertaking a complete enquiry in the manner contemplated under the Control Order, 2016. The records also do not reveal that the petitioner was afforded an effective opportunity to rebut the alleged shortage or to controvert the material relied upon against her. The impugned orders, therefore, do not inspire confidence as having been passed after a full-fledged enquiry satisfying the requirements of procedural fairness.

13. This Court is conscious of the fact that it is not required to enter into the disputed questions regarding the actual shortage of food grains or the petitioner's liability. Those are essentially matters to be determined by the competent authority upon appreciation of evidence. However, when the decision-making process itself is found to be deficient and contrary to the prescribed procedure, this Court, in exercise of its writ jurisdiction, is justified in interfering with the impugned orders and relegating the parties to the competent authority for fresh adjudication.

14. Consequently, the impugned orders dated 27.03.2023 and 24.04.2023 are hereby set aside. The matter is remitted to the Sub- Divisional Officer

(Revenue), Baikunthpur, District Korea (C.G.), for fresh consideration. The concerned Sub-Divisional Officer (Revenue) shall conduct a fresh enquiry strictly in accordance with Clause 16 of the Chhattisgarh Public Distribution System (Control) Order, 2016. Before passing any final order, the authority shall afford adequate and effective opportunity of hearing to the petitioner, permit her to produce all documents in her defence, record the statements of all relevant witnesses whose evidence is necessary for proper adjudication of the controversy and thereafter pass a reasoned and speaking order strictly in accordance with law.

15. It is further directed that the petitioner shall obtain the certified copy of this order within one week from today and shall place the same before the concerned Sub-Divisional Officer (Revenue). Upon production of the certified copy, the competent authority shall proceed with the enquiry forthwith and shall make every endeavour to conclude the entire proceedings and pass a final order within a period of 30 days from the date of production of the certified copy of this order.

16. It is made clear that no further notice shall be required to be issued to the concerned Sub-Divisional Officer (Revenue) in pursuance of this order. However, the competent authority shall issue appropriate notices to all necessary and affected parties, including the petitioner and any other person whose presence or evidence is considered necessary, so as to ensure that the enquiry is conducted in a fair, transparent and comprehensive manner within the aforesaid period.

17. The petitioner is also directed to extend full cooperation in the enquiry as contemplated under Clause 16 of the Chhattisgarh Public Distribution

System (Control) Order, 2016. In the event the petitioner fails to cooperate or deliberately delays the proceedings, it shall be open to the competent authority to proceed further in accordance with law and pass appropriate orders on the basis of the material available on record.

18. It is clarified that this Court has not expressed any opinion on the merits of the allegations levelled against the petitioner or with regard to the alleged shortage of food grains, and all questions of fact and law are left open to be adjudicated independently by the competent authority without being influenced by any observation contained in this order.

19. With the aforesaid observations and directions, the writ petition stands allowed. There shall be no order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Priyanka

WPC No.2258/2023

Head Note

“Principles of Natural Justice means requirement of fair and effective opportunity of hearing a person whose rights and interests are adversely effected should be given opportunity of hearing by furnishing of enquiry report and material relied upon by the authority so that he may defend himself properly.”