

Lakshmi Prathmik Upbhokta Sahkari Bhandar Marya Vs District Collector Durg, Collectorate, Patel Chowk And Ors

Court: Chhattisgarh High Court

Date of Decision: Sept. 24, 2018

Hon'ble Judges: Prashant Kumar Mishra, J

Bench: Single Bench

Advocate: Shikhar Sharma, Shashank Thakur

Final Decision: Disposed Of

Judgement

Prashant Kumar Mishra, J

1. By order (Annexure-P-2), the Collector (Food), District Durg has suspended petitioner's fair price shop in purported exercise of power under

Clause 16 of the Chhattisgarh PDS Control Order, 2004 (henceforth 'the Order, 2004').

2. Clause 16 (1) of the Order, 2004 speaks about penalty and suspension is one of the major penalty mentioned in Clause 16 (1). Under sub-clause (3)

of Clause 16, the Designated Authority is enjoined to issue show cause notice before cancellation of allotment of fair price shop and the final order is

required to be passed within a month from the date of issuance of show cause notice, meaning thereby that the entire procedure for cancellation of the

allotment of fair price shop is to be completed within one month.

3. In the case at hand, after suspension of petitioner's allotment of fair price shop, no other action has been initiated against him. Therefore, it appears,

the Collector is treating the order of suspension as the final order imposing penalty upon the petitioner, but an order of suspension cannot remain in

operation for an indefinite period making the same an order of cancellation of allotment.

4. In the circumstances, I deem it appropriate to dispose of the writ petition by directing the Collector (Food), Durg to pass final order against the

petitioner within a period of one month from today, failing which immediately after expiry of one month period, the order (Annexure-P-2) shall cease

to remain in operation and the petitioner shall be entitled to run the fair price shop, as if the Collector (Food), Durg does not intend to pass any order

directing cancellation of petitioner's fair price shop.