

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH**SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.****WRIT PETITION NO. 3594 OF 2004****PETITIONER:**

Women Self Help group through
President Smt. Pramila, W/o Shri
Sumeshwar, age about 26 years,
Resident of Village Gangoti, Tahsil -
Surajpur, District Surguja (C.G.).

Vs.

RESPONDENTS:

1. State of Chhattisgarh
Through the Secretary Food,
D.K.S. Bhawan, , Raipur (C.G.)
2. Collector, Surguja (Food) Ambikapur,
Surguja (C.G.)
3. Asst. Food Officer - Surajpur - Distt.
Surguja.
4. Adimjati Seva Sahkari Samiti, Sonpur
(Banja) through Salesman Awadesh
Gupta, S/o Shri Radheshyam, age
about 27 years, village Sonpur, P.O.
Bariya, Tah: Surajpur, District - Surguja
(C.G.)

Present:

Smt. Hamida Siddique, learned counsel for the petitioner.
Shri N.K. Agrawal, learned Dy. A.G. for the State/
respondents 1 to 3.
Shri A.K. Shukla, learned counsel for respondent No.4.

ORAL ORDER

(Passed on 31st March, 2006)

Women Self Help Group, Gangoti village, Surajpur Tahsil,
Surguja District represented by its President has filed this writ petition
under Article 226 of the Constitution of India calling in question the
validity of the order of the Assistant Food Officer, Surajpur, the 3rd
respondent herein dated 03-09-2004, cancelling the allotment of fair

price shop earlier allotted to the petitioner – Society vide order dated 28-07-2004 and allotting the same in favour of the 4th respondent herein.

(2) Having heard learned counsel for the parties and perused the pleadings filed by them, I find an apparent flaw which vitiates the impugned action of the 3rd respondent.

(3) As per the provisions of the Chhattisgarh Food Stuffs (Distribution & Control) Order, 1960 the Government of Chhattisgarh has framed Chhattisgarh (Food Stuffs) Civil Supplies Distribution Scheme, 2001 (for short 'the Scheme'), the petitioner – Society applied to the 3rd respondent for allotment of a fair price shop in Gangoti village, in the year 2004. It appears that there were no other applicants for allotment of fair price shop in Gangoti village. The 3rd respondent having considered the application of the petitioner – Society, by his order dated 28-07-2004, allotted the fair price shop to the petitioner – Society to be established in Gangoti village. When the matter stood thus, it appears that the 4th respondent herein on 25-08-2004 made an application to the 3rd respondent for allotment of a fair price shop in Gangoti village, on the basis of priority contained in sub-clause (2) of the Scheme . The 3rd respondent acting on the said application and without notice to the petitioner-Society, by his order dated 03.09.2004, cancelled his earlier order dated 28.07.2004 and allotted the same shop in favour of the 4th respondent-Society.

(4) The facts stated *supra* and the records placed before the Court would reveal that as on 28.04.2004, there were no other rival applications for allotment of fair price shop in Gangoti village except the

application of the petitioner-Society. Therefore, the 3rd respondent applying preferences incorporated in sub-clause (2) of the Scheme to choose a person or Society for allotment of fair price shop would not have arisen. In other words, the action of the 3rd respondent in allotting the fair price shop in Gangoti village in favour of the petitioner-Society vide his order dated 28.07.2004 could not be faulted with. Simply because, subsequent to 28.07.2004, the 4th respondent-Society, even assuming that the Society is a preferred Society compared to the petitioner-Society, made an application for allotment of fair price shop, that fact itself would not invalidate the order already made by the 3rd respondent on 28.07.2004. Secondly, the impugned order should be condemned being violative of principles of natural justice and Article 14 postulates. No notice was issued to the petition-Society to have its say in the matter before cancelling the allotment order dated 28.07.2004. Affected should be appraised is a constitutional creed flowing from Article 14 of the Constitution and that rule has been violated by the 3rd respondent-Statutory Authority.

(5) In the result and for the foregoing reasons, the writ petition is allowed and the order dated 03.09.2004 marked as Annexure R-2, cancelling the allotment order dated 28.07.2004 made in favour of the petitioner-Society and allotting the same shop in favour of the 4th respondent is quashed. No costs.

Sd/-
Chief Justice