

PENAL PROVISIONS

PROCEDURAL ASPECTS

The Stakeholders

- ▶ Fair price shop dealers
- ▶ Distributors
- ▶ Rice Mills
- ▶ Flour Mills

Why penalty

- ▶ To ensure the interest of the beneficiaries
- ▶ To recover the value of the subsidized PDS items, if misappropriated.

What is delinquency

- ▶ To deviate from the standard operational procedure with some mala fide intention
- ▶ To contravene the established provisions of laws, rules, directions etc.
- ▶ To jeopardize the interest, rights, entitlements of the beneficiaries

How to deal with delinquency

- ▶ By taking preventive measures
- ▶ By taking disciplinary actions

Preventive Measures

- ▶ Frequent visits
- ▶ Educating and guiding the stakeholders
- ▶ Micro-level meetings
- ▶ Prompt redressal of public grievances
- ▶ Public awareness
- ▶ Social audit

Disciplinary actions

- ▶ Surprise inspection
- ▶ Proper documentation
- ▶ Reporting
- ▶ Service of show cause notice
- ▶ Personal hearing
- ▶ Issuing speaking order

Inspection

- ▶ Attitude of the inspecting officials
- ▶ Seeking documents from the stakeholder
- ▶ Scrutiny of documents and other things
- ▶ Physical verification
- ▶ Preparation of PV sheet
- ▶ Obtaining signature of the stakeholder on the PV sheet
- ▶ Procedure of entry, search and seizure
- ▶ 100 CRPC
- ▶ Providing of copy of the enquiry report to the stake holder

Scrutiny of the enquiry report

- ▶ Consultation with the relevant provisions of the control order
- ▶ Segregation of the major and minor offences
- ▶ Formation of opinion whether the licensee deserves suspension or not
- ▶ Preparation of suspension notice
- ▶ Preparation of show cause notice

Salient features of a show cause notice

- ▶ Mention of the relevant paras and sub paras of the control order
- ▶ No additional charges that have not been framed in the Enquiry Report
- ▶ Clear and reasonable time frame for reply

Service of the show cause notice

- ▶ Through online mode
- ▶ Through e mail
- ▶ Through registered post with acknowledgement due
- ▶ Through special messenger

Hearing

- ▶ By appearing in person
- ▶ By represented by the lawyer
- ▶ In case of representation by a lawyer, a Vokatnama should be obtained.
- ▶ Signature of the party in an attendance sheet in the both cases must be obtained.
- ▶ Language should be polite
- ▶ Recording his statement and read aloud to the charged person in his vernacular and obtaining his signature thereon.

General principles

- ▶ Natural justice
- ▶ Reasonable opportunity

Natural Justice

- ▶ Right of the charged person to be heard
- ▶ Justice is not only to be done but also should appear to have been done.

Reasonable Opportunity

- ▶ Cross examination of the enquiry officials
- ▶ Verification of the documents on the basis of which charges have been framed.

Speaking order

- ▶ Five components
- ▶ Brief statement of facts
- ▶ Statement of charges (No charge which was not mentioned in the show cause notice should be added)
- ▶ Statement of defence
- ▶ Arriving at an inference through reasoning
- ▶ Order