

Court No. - 36

Case :- WRIT - C No. - 920 of 2019

Petitioner :- Suman Devi

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Kedar Nath Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Manjive Shukla,J.

1. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondents.
2. Petitioner through this writ petition has challenged the order dated 19.12.2018 passed by the Sub Divisional Magistrate, Sadar Ghazipur, whereby petitioner's application for grant of fair price shop licence in favour of the petitioner in lieu of death of her husband, who was a valid fair price licensee, has been considered and rejected.
3. Learned counsel appearing for the petitioner has submitted that petitioner's case has been rejected by the Sub Divisional Magistrate, Sadar Ghazipur vide order dated 19.12.2018 only on the ground that general reputation of her husband while working as a fair price shop licensee was not good and therefore, in view of the provisions made in Clause 10 (Jha) of the Government order 17.08.2002 she is not entitled for grant of fair price shop licence on compassionate ground.
4. Learned counsel appearing for the petitioner has argued that the aforesaid Clause 10 (Jha) was challenged before this court in Civil Misc. Writ Petition No. 16948 of 2018 (Sumpurnanand Vs State of U.P. & Ors.) and this court vide judgment and order dated 26.10.2018 directed the State Government to reconsider the matter and consequently State Government has issued a Government order on 15.02.2019 in which the earlier condition of fair price shop licensee having good reputation has been removed and now on the death of fair price shop licensee his dependent can be granted fair price shop licence on compassionate ground even if general reputation of the deceased fair price shop licensee was not good.
5. Learned counsel appearing for the petitioner has argued that in view of the provisions made vide Government order dated 15.02.2019 petitioner is liable to be granted fair price shop licence and the order dated 19.12.2018 impugned in this writ

petition cannot sustain in the eyes of law.

6. Per contra, learned Standing Counsel has opposed the writ petition and has submitted that the Government order dated 15.02.2019 has been issued subsequent to the date of rejection of the petitioner's case and therefore, provisions of Government order dated 15.02.2019 shall not apply in the case of petitioner.

7. I have considered the rival submissions advanced by the learned counsels appearing for the parties, and I find that this court vide judgment and order dated 26.10.2018 passed in Civil Misc. Writ Petition No. 16948 of 2018 has directed the State Government to reconsider the provisions of Clause 10 (Jha) of the Government order dated 17.08.2002 and State Government has issued a fresh order dated 15.02.2019, wherein the condition of deceased fair price shop licensee having good reputation has been removed. Once the State Government itself has removed the condition of deceased fair price shop licensee having good reputation then the case of the petitioner needs to be reconsidered.

8. In view of the aforesaid reasons, this writ petition is **allowed** order dated 19.12.2018 passed by the Sub Divisional Magistrate, Sadar, Ghazipur is quashed. Matter is remanded to Sub Divisional Magistrate, Ghazipur to consider the petitioner's application for grant of fair price shop licence afresh in light of the provisions made in the Government order dated 15.02.2019.

9. It is further provided that the aforesaid exercise shall be completed within a period of two months from the date of service of certified copy of this order.

Order Date :- 7.12.2023

Gaurav