

Court No. - 5

Case :- WRIT - C No. - 28639 of 2023

Petitioner :- Girja Shankar

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Mukul Yadav,Rajesh Yadav

Counsel for Respondent :- C.S.C.,Rameshwar Prasad Shukla

Hon'ble Piyush Agrawal,J.

At the joint request of counsel for the parties, the matter is being heard and finally decided.

Heard learned counsel for the petitioner and learned Standing Counsel for the State authorities and Shri R.P. Shukla, learned counsel for the respondent no.5.

By means of present writ petition, the petitioner has assailed the order dated 28.06.2023 by which his representation has been rejected.

Learned counsel for the petitioner submits that this is a second round of litigation for which he has to approach this Court by means of filing Writ-C No.29740 of 2017, which was disposed by order dated 30.8.2017 with the following direction to the District Magistrate:-

"We provide that after the State Government/District Authorities take appropriate action in the matter of ensuring that the licences granted/renewed in favour of the petitioners as brought in time with the provisions of Kerosene Control Order, 1962 as applicable on date, the prayer of the petitioners for grant of kerosene oil be examined by the District Magistrate by means of a reasoned order. The exercise in that regard may be completed within 4 weeks of the receipt of the certified copy of this order."

In pursuance of the said order, the impugned order has been passed. He further submits that the authorities have illegally passed the order holding that there is no vacancy of shop. He next submits that the shop in question was attached to one Ramdhyan for the time being, therefore, there exist the vacancy, which has illegally been held to be otherwise.

Learned Standing Counsel supports the order impugned and submits that there is no vacancy and therefore, the order is

justified.

On perusal of the impugned order itself admits that in pursuance of the suspension of the shop of the petitioner, the shop in question was attached to one Ramdhyan, therefore, it is incorrect on the part of authorities to hold that there is no existence of vacancy of any shop.

It is not in dispute that the petitioner was running a shop before the passing of the order by which action has been taken against him. It has also been not mentioned that there is no requirement for shop in question but only refers two resolutions dated 23.10.2019 and 12.9.2022, but the authorities have lost sight of the fact that after the suspension of shop of the petitioner, the same was attached to Ramdhyan.

In view of the above, the impugned order cannot sustain and the same is hereby quashed.

The matter is remanded back to the authorities. This is a second time when the matter is being remanded back. It is directed to the District Magistrate, Mau to take a final decision in the matter himself within a period of one month after hearing all the stakeholders.

Accordingly, the writ petition is **allowed**.

Order Date :- 13.10.2023

Pravesh Mishra