

Court No. - 52

Case :- WRIT - C No. - 25264 of 2017

Petitioner :- Smt. Tulsa Devi

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Girish Chandra Yadav

Counsel for Respondent :- C.S.C.,Rajesh Yadav

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Girish Chandra Yadav, learned counsel for petitioner and Sri Om Anand, learned Standing Counsel for the State-respondent nos.1 to 3.

2. The present petition has been filed for seeking quashing of the order dated 31.03.2017 passed by respondent no.2 i.e. Joint Commissioner (Food) Saharanpur Division, Saharanpur and order dated 05.11.2016 passed respondent no.3 i.e. Sub Divisional Officer Behat, District Saharanpur whereby license of fair price shop extended in favour of petitioner has been cancelled.

3. It is the case of petitioner that after following due process of law, license of fair price shop was extended in favour of petitioner in the year 2010, due to some village party-bandi, respondent nos.5 to 7 made a false complaint against petitioner before respondent no.3 and in pursuance of the complaint, order for general inquiry was passed and license of fair price shop extended in favour of petitioner, has been suspended vide order dated 02.09.2016 by respondent no.3. After completion of inquiry, chargesheet was submitted and after receiving the same, petitioner submitted her reply in detail and denied the charges levelled against her. Vide order dated 05.11.2016, respondent no.3 cancelled the license of fair price shop without considering the objection and reply submitted by petitioner, being aggrieved with the same, petitioner preferred an appeal bearing Appeal No.38 of 2016-17 along with stay application before respondent no.2 and the same was also dismissed vide order dated 31.03.2017 which impugned the present petitioner.

4. Learned counsel for petitioner submitted that petitioner always distributed the articles properly to the card holders and the complaint made against her, was politically motivated and also ten persons refused to verify their signatures which were put over the

complaint and they have also given their affidavits regarding distribution of materials properly. Learned counsel for petitioner further submitted that after cancellation of fair price shop license granted in favour of petitioner, has been allotted to respondent no.5, namely, Gadar Singh who made complaint against petitioner and as such, cancellation of license of fair price was motivated with malice.

5. Learned Standing Counsel per contra vehemently opposed the prayer as made in the petition and rebutted the stand taken up by learned counsel for petitioner by submitting that most of the charges which were levelled against petitioner, have been proved and as such, orders impugned are just and proper.

6. It is apparent from the records that the complaint was preferred by respondent no.5 along with others whereupon proceedings for cancellation of fair price shop was initiated against petitioner which culminated into orders which impugned the present petition, thereafter the same fair price shop has been allotted to respondent no.5 by which it has been transpired that the complaint has been oriented only for securing vested interest by respondent no.5 for seeking allotment of the fair price shop which was properly conducted by petitioner herself. Moreso, most of the persons have also given affidavits with regard to proper distribution of commodities.

7. In view of the aforesaid facts and circumstances, orders dated 31.03.2017 and 05.11.2016 passed by respondent nos.2 and 3 respectively are set aside, matter is hereby remitted back to respondent no.3 for deciding afresh after by way of affording proper opportunity of hearing to the all concerned.

8. The aforementioned exercise shall be finalized by respondent no.3 as expeditiously as possible, preferably within a period of six months from the date of production of a certified copy of this order before him.

9. However, it is made clear that the allotment so made in favour of respondent no.5, shall be subject to final outcome of reconsideration as directed above to the respondent no.3.

10. Writ petition stands **allowed** accordingly.

Order Date :- 23.11.2023

Vivek Kr.