

Court No. - 39

Case :- WRIT - C No. - 38538 of 2023

Petitioner :- Dr. Arvind Kumar

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Narendra Kumar Pathak, Jitendra Kumar Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. The submission of the petitioner is four fold. First, it has been submitted, no negligence had been practised by the petitioner or any of his employees as may have resulted in the occurrence of the unfortunate death of Smt. Laung Shree. She developed certain complications after voluntary discharge and unfortunately she succumbed to death. Therefore, it has been submitted that the petitioner cannot be held responsible for such occurrence.

Second, it has been submitted, the petitioner's registration is valid till 30.03.2024. Therefore, the narration in the communication dated 24.08.2023 issued by the CMO, Pilibhit to cancel the application for registration made by the petitioner, is perverse.

Third, it has been submitted, in any case there is power vested with the respondent authorities to seal the immovable property of the petitioner.

Fourth, it has been submitted, the entire proceedings have been conducted and are being completed against the petitioner without affording any opportunity of hearing.

2. Having heard learned counsel for the petitioner and having perused the record, at present, facts are in dispute as may require proper examination by the respondent no. 2. *Prima facie*, it also appears that opportunity of hearing has not been granted to the petitioner. Neither the petitioner may have been confronted with the allegation made and nor he may have been heard before adverse orders have been passed to the effect of cancellation of registration and sealing of the premises.

3. In view of the above, no useful purpose may be served in keeping the present petition pending at this stage.

4. Facts are to be ascertained after due opportunity of hearing to the petitioner.

5. Accordingly, the writ petition is **disposed of** with the direction, the respondent no. 2 may issue an appropriate notice to the petitioner with respect to the proposed action of cancellation of registration and sealing of the premises (if proposed). Such compliance may be made within a period of one week from today.

6. Notice thus issued shall necessarily contain copy of adverse material being relied against him. The petitioner undertakes to file objection/reply to such notice within a period of two weeks supported by his personal affidavit and also other affidavits and documents as the petitioner may seek to rely on it.

7. Upon such compliance, the respondent no. 2 may offer brief opportunity of hearing to the petitioner and pass appropriate reasoned and speaking order within a period of one month therefrom.

8. The proceedings may be concluded not later than two months

from today. The order impugned in the present petition dated 24.08.2023 and the further order providing for sealing the petitioner's premises shall abide by the further orders to be passed by the CMO, Pilibhit in compliance of this order.

Order Date :- 16.12.2023
SA

(Shiv Shanker Prasad, J.) (S.D. Singh, J.)