

Court No. - 6

Case :- WRIT - C No. - 40130 of 2023

Petitioner :- Pramod Tiwari

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

Counsel for Petitioner :- Vishal Tandon

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Manju Rani Chauhan,J.

Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondent and Mr. Satyawan Shahi who has filed caveat on behalf of subsequent allottee.

The present writ petition has been filed with the prayer to quash the order dated 31.03.2021 passed by Sub Divisional Officer, Tehsil Tamkuhirajm, District Kushinagar whereby the petitioner's fair price shop agreement has been cancelled and the order dated 10.08.2023 passed by the Joint Commissioner (Food), Gorakhpur Division, Gorakhpur in Case No. RST/705/203 (Computerized Case No. C202305000000705) between Pramod Tiwari Vs. Sub Divisional Officer, Tehsil Tamkuhiraj, Kushinagar, whereby his appeal has also been dismissed and further prayed to direct the respondent authorities to restore the fair price shop agreement of the petitioner forthwith of Gram Sabha Tarya Harkesh, Block Sevrahi, Tehsil Tamkuhiraj, District Kushinagar.

At the very outset learned counsel for the petitioner submits that with the same allegation an FIR was lodged against the petitioner in which after investigation final report has been accepted by the concerned court. The aforesaid fact was brought before the appellate authority but the same has not been considered, therefore, the impugned order passed by the concerned authority is in violation of natural justice without application of mind as a special fact regarding acceptance of final report which means that the allegations as made against the petitioner has not been considered.

The learned Standing Counsel has no objection to the submission

made by the counsel for the petitioner.

No useful purpose would be served by keeping this petition pending in view of the order, which the Court proposes to pass hereunder.

In view of the aforesaid, the impugned order dated 10.08.2023 passed by the Joint Commissioner (Food), Gorakhpur Division, Gorakhpur is hereby set aside and the matter is remitted back before appellate authority to consider the aforesaid fact of acceptance of final report and pass fresh orders after giving opportunity of hearing to the petitioner.

Needless to say that the arrangements as made for running fair price shop shall continue till final orders passed by the appellate authority.

With the aforesaid directions, the present application is disposed off.

Order Date :- 22.11.2023

Arti