

Court No. - 8

Case :- WRIT - C No. - 1000946 of 2015

Petitioner :- Husnaz Begam

Respondent :- State Of U.P. Thru Secy. Food And Civil Supply
U.P. And Others

Counsel for Petitioner :- Dilip Kumar Pandey, Satish Kumar
Sharma, Tribhuvan Narai Singh

Counsel for Respondent :- C.S.C., K.K. Tiwari

Hon'ble Pankaj Bhatia, J.

(Civil Misc. Application No.119078 of 2021)

1. Application has been filed seeking recall of the order dated 12.05.2017.
2. The cause shown for recalling the order is sufficient.
3. The application is allowed.
4. The order dated 12.05.2017 is recalled.
5. Writ petition is restored to its original file and number.

(Order on main petition)

6. Heard counsel for the petitioner.
7. The present petition has been filed challenging the order dated 26.06.2014 whereby a fair price shop license of the petitioner was cancelled as well as the appellate order dated 12.01.2015 whereby the appeal preferred by the petitioner was dismissed.
8. The facts, in brief, are that on account of there being complaints against the petitioner, the petitioner was served with a show cause notice-cum-suspension order calling upon the

petitioner to give a reply. The petitioner denied all the allegations through a detailed reply dated 21.06.2014 and along with the said, the petitioner enclosed the distribution register and the certificates issued by the Gram Panchayat in his favour which ran into 78 pages. The licensing authority without considering any of the evidences and without verifying the allegations from the supply register passed an order cancelling the fair price shop license of the petitioner. The petitioner filed an appeal and in the said appeal, it was specifically stated that the defence of the petitioner was not considered and the documents to substantiate the said defence have not been touched upon.

9. The appellate authority while dismissing the appeal, merely relied upon the enquiry report as well as the statements given against the petitioner. In the said order, there is no consideration of the defence taken by the petitioner or the documents submitted by the petitioner in support of his defence.

10. Clearly the appellate order has been passed without considering the defence of the petitioner or the documents submitted by him as such, on that ground alone, the appellate order cannot be sustained and is quashed. The matter is remanded to the appellate authority to hear and decide the matter afresh after taking into consideration the materials submitted by the petitioner in his defence. While doing so the appellate authority shall also accord hearing to the subsequent allottee, if any.

11. The writ petition stands **disposed of** in terms of said observations.

Order Date :- 11.12.2023
Mohd. Sharif