

Court No. - 8

Case :- WRIT - C No. - 3241 of 2023

Petitioner :- Abdul Ahad

Respondent :- State Of U.P. Thru. Its Prin. Secy. Food And Civil Supplies,Lko. And 2 Others

Counsel for Petitioner :- Ajey Singh

Counsel for Respondent :- C.S.C.,Pradeep Kumar Shukla

Hon'ble Pankaj Bhatia,J.

Order on I.A. No.5 of 2023:

1. The application has been filed by the applicant for impleadment mainly on the ground that after the cancellation of the license, the shop in question was allotted to the applicant, thus, he is a necessary and proper party.
2. A copy of the allotment letter in favour of the applicant is also placed on record. The said allotment order records that the allotment of the applicant is contingent upon the decision of the writ petition filed by main allottee, thus, the allotment is not a regular allotment but it is a contingent allotment.
3. A contingent allottee has no absolute right to contest the proceedings, as such, the impleadment application merits rejection and is accordingly rejected.

Order on Writ Petition:

4. Heard learned counsel for the petitioner and learned Standing Counsel for the State.
5. Present petition has been filed challenging the order dated 04.09.2022 whereby the fair price shop license of the petitioner was cancelled as well as the order dated 16.03.2023 whereby the appeal preferred by the petitioner was dismissed.
6. The facts, in brief, are that the petitioner was running a fair price shop. On account of certain allegations levelled against the petitioner, an order came to be passed on 27.04.2022 whereby the fair price shop license granted to the petitioner was suspended mentioning the allegations levelled against him. Against the said suspension order dated 27.04.2022, the petitioner approached this Court by filing Writ - C No.3109 of 2022, which was disposed off on 25.05.2022 relegating the petitioner to avail remedy of appeal and interim protection of 15 days was granted to the petitioner with regard to implementation

of the order dated 27.04.2022. Subsequently, an order came to be passed in favour of the petitioner on 06.06.2022 whereby the operation of the suspension order dated 27.04.2022 was stayed by the appellate authority.

7. It also bears from record that the petitioner was served with a charge-sheet dated 28.04.2022. In the said charge-sheet, which is on record as Annexure - 6, it was alleged that 25 Antyodya card holders had given affidavits against the petitioner with regard to distribution of food-grains as well as the behavior of the petitioner as a fair price shop holder. It was also alleged that 5 family card holders had also given an affidavit against the petitioner with regard to improper distribution of food-grains.

8. It was alleged that the present Gram Pradhan alongwith 7 other panchayat members had given a written statement against the petitioner with regard to inadequate distribution of food-grains to the various card holders. It was also alleged that on the basis of an inspection carried out, it was found that proper stocks were not maintained and the quantity of food-grains was not in accordance with the provisions of the Act and were less than what was prescribed. On the basis of the said allegations, a view was formed that the petitioner was misappropriating the food-grains and was indulging in black marketing.

9. In support of the said charge-sheet, evidences in the form of affidavits were proposed to be relied upon. The petitioner was called upon to give his reply within one week. It is stated that the petitioner filed a reply denying the allegations and stated as a defense that all the card holders were distributed the food-grains and they never raised any objection and had given the affidavits as an afterthought. He also stated that on the day in question as card holders were residing nearby and the food-grains could not be distributed on account of heavy rush, the food-grains were distributed on the next day, however, their thumb impression was taken on the same day.

10. In view of the defense taken by the petitioner in respect of the charge-sheet issued to him, an order dated 04.09.2022 came to be passed cancelling the fair price shop license of the petitioner. The Licensing Authority, based upon the evidences in the form of affidavits and the statements of the Gram Pradhan and other panchayat members, disbelieved the defense taken by the petitioner and upheld the charges levelled against him and proceeded to cancel the fair price shop license. The appeal preferred by the petitioner came to be dismissed.

11. Considering the materials on record as noted above, *prima-facie*, what transpires is that the charge-sheet was duly replied

by the petitioner denying the allegations, however, the evidences in the form of affidavits and the statements were not controverted and no effort was made by the petitioner to cross-examine the persons who had deposed against the petitioner. Except for a statement that the said persons were distributed the food-grains, no attempt appears to have been made at the behest of the petitioner to discredit the evidences led against him; no evidence was also led in the form of any other affidavits by the petitioner to substantiate his defense. As such, on the basis of evidences available against the petitioner, no error was committed by the Licensing Authority in cancelling the fair price shop license. No error in the decision making process can be deciphered in the said two impugned orders, as such, no good ground for interference is made out.

12. The writ petition lacks merit and is accordingly ***dismissed***.

Order Date :- 5.12.2023
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