

Court No. - 8

Case :- WRIT - C No. - 1005572 of 2013

Petitioner :- Hasib Ahmad

Respondent :- Additional Commissioner Food Lucknow
Mandal Lucknow Andanr

Counsel for Petitioner :- Satish Chandra Sitapuri, Amitabh Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel.
2. The present petition has been filed challenging the order dated 17.11.2012 whereby the fair price shop license of the petitioner was cancelled as well as the order dated 04.07.2012 whereby the appeal preferred by the petitioner was dismissed.
3. The contention of the learned counsel for the petitioner is that on the basis of some inquiry conducted at the behest of Block Development Officer, Sandila, the petitioner was called upon to give a reply and his shop was placed under suspension.
4. Learned counsel for the petitioner draws my attention to the order of suspension contained in Annexure No.1, which according to the petitioner does not impute any allegations. The petitioner gave a reply to the said notice. although the same was vague through his reply dated 05.09.2012. Thereafter, an order came to be passed cancelling the license of the petitioner, based upon the various cards issued to various persons, the same were verified with data upon downloading of the details of the cardholders through internet, a view was formed that the card holders are different from the ones whose details are available with the Block Development Officer. A reference was also made to some inspection carried out on 13.09.2012 wherein some cardholders had indicated that the supply was not proper.
5. On the said observation, the cancellation order came to be

passed on 17.11.2012 and the petitioner preferred an appeal. In the said appeal, it was specifically pleaded that even though inquiry report was never supplied to the petitioner nor was he afforded an opportunity of hearing, however, the appellate authority dismissed the appeal.

6. Counter affidavit has been filed by the State justifying the impugned order with a prayer to dismiss the writ petition.

7. From the facts and the arguments as referred to above, what transpires is that in the show cause notice, there was no specific allegation against the petitioner which itself is contrary to the law laid down by the Supreme Court in the case of ***Oryx Fisheries Pvt. Ltd. Vs. Union of India, (2010) 13 SCC 427.***

8. It is also clear from the record that the inquiry report was never supplied to the petitioner nor was any opportunity of hearing granted, thus clearly the order impugned have resulted in violation of principle of natural justice and also are in violation of Article 14 of the Constitution of India. The impugned order, which are based upon no reasoning whatsoever and on material which was never confronted to the petitioner, are unsustainable and are accordingly quashed. As this Court had granted interim protection to the petitioner vide order dated 29.08.2013 and it is argued that only the shop has been attached and has not been allotted to a third person, as such, a consequence of the allowing of the writ petition is that the shop in question be restored with the petitioner in accordance with law.

9. In view of the aforesaid observations, the writ petition is **allowed.**

Order Date :- 11.12.2023
Mohd. Sharif