

Court No. - 8

Case :- WRIT - C No. - 1005759 of 2013

Petitioner :- Harish Chandra Tripathi

Respondent :- State Of U.P. Prin.Secy.Food And Civil Supply Civil
Sectt.Andor

Counsel for Petitioner :- S.P. Singh Somvanshi

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

1. Heard the counsel for the petitioner and the learned Standing counsel.
2. The present petition has been filed by the petitioner challenging the order dated 31.08.2009 whereby the fair price shop license of the petitioner was cancelled as well as the order dated 24.04.2013 by which the appeal preferred by the petitioner against the said order was dismissed.
3. The submission of the counsel for the petitioner is that the petitioner was running a fair price shop and based upon the allegations levelled against him, an order came to be passed against the petitioner on 31.08.2009 (Annexure no.2) cancelling the fair price shop.
4. From the record, it is revealed that prior to passing of the cancellation order, the suspension order was passed against the petitioner, which was challenged in appeal and the appeal was disposed off directing the licensing authority to take a final decision in the case of the petitioner. In pursuance to the said direction given by the appellate authority, an order came to be passed on 31.08.2009 cancelling the fair price shop license of the petitioner. The petitioner preferred an appeal, which too was dismissed vide order dated 24.04.2013 .
5. The submission of the counsel for the petitioner is that in terms of the provisions of the Government Order of the year 2004, it was incumbent upon the respondents to have issued a show cause notice prior to cancellation, which was never issued and thus the order of cancellation suffers from vice of violation of principles of natural justice. It is argued that no allegations were levelled against the petitioner as is clear from the cancellation order. Even in the appellate order, there is no consideration of the fact that no show cause notice was issued against the petitioner nor any charge-sheet levelling allegations were given to the petitioner prior to passing of the cancellation order.

6. In view thereof, solely on the ground of violation of principles of natural justice, both the orders dated 31.08.2009 and 24.04.2013 are quashed. The respondents would be at liberty to initiate fresh proceedings, if so advised solely on the basis of the allegations that were then existing. In any case, the fair price shop of the petitioner shall be restored within a period of two months from today, unless there is any legal impediment.

7. With the said observations, the writ petition stands ***disposed off***.

Order Date :- 10.10.2023

VNP/-