

Court No. - 3

Case :- WRIT - C No. - 5279 of 2023

Petitioner :- Asha Singh

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

Counsel for Petitioner :- Satish Kumar Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Subhash Chandra Sharma,J.

1. Heard Sri Satish Kumar Sharma, learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State.

2. The present writ petition has been filed seeking a writ, order or direction in the nature of Certiorari for quashing the part of order dated 24.11.2022 passed by the opposite party no.2 in appeal No. D-158/2022 (Asha Singh Vs. Sbu Divisional Magistrate Lucknow), under Section 13(3) of the Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016.

3. It is contented by learned counsel for the petitioner that in this case against the impugned order, an appeal is pending before the opposite party no.2 i.e. Joint Commissioner (Food), Lucknow Division, Lucknow since 15.11.2022 which was admitted and original records were summoned but impugned order was not stayed. He also relied on the ratio given in the case of ***Radha Rani Cold Storage Pvt. Vs. U.P. State Cold Storage Tribunal and others; 2009 (27) LCD 1391*** and urged that the Commissioner ought to have suspended the lower court's order during pendency of the appeal otherwise the purpose would be frustrated, therefore, requested to stay the order in question in appeal. He also cited the order passed by co-ordinate Bench of this Court in Writ C No.5988 of 2022 dated 06.09.2022, in which, the order of cancellation of license of the fair price shop of the petitioner was stayed by this Court in appeal pending before the Deputy Commissioner and direction was given to decide the appeal expeditiously within a period of six weeks.

4. Learned A.C.S.C. for the State could not dispute the aforesaid position of law.

5. In view of ratio laid down in the aforesaid case and the

direction passed by this Court as aforesaid, it is directed that the order of cancellation of the license of fair price shop shall remain stayed till the decision taken by the opposite party no.2 i.e. Joint Commissioner (Food), Lucknow Division, Lucknow, who is expected to decide the appeal expeditiously, say within a period of **six weeks** from today.

6. With this observation, the writ petition is disposed of.

Order Date :- 27.6.2023

Ashok Gupta