

**Court No. - 8**

**Case :-** WRIT - C No. - 3208 of 2019

**Petitioner :-** Shiv Nath

**Respondent :-** Addl. Commissioner Food Devipatan Division Gonda And Ors.

**Counsel for Petitioner :-** Surya Kant Singh,Afzal Hasan,Alok Kumar Singh,Rajesh Kumar Singh,Rakesh Kumar Srivastava,Saumitra Tiwari,Veerendra Kumar Tiwari,Vijayendra Prakash Tripathi

**Counsel for Respondent :-** C.S.C.,Jai Kumar

**Hon'ble Pankaj Bhatia,J.**

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State.

2. Present petition has been filed challenging the order dated 07.06.2018 whereby the fair price shop license of the petitioner was cancelled as well as the order dated 28.12.2018 whereby the appeal preferred by the petitioner was dismissed.

3. The facts, in brief, are that the local MLA had made a complaint with regard to improper functioning of the fair price shop, held by the petitioner. In pursuance to the said, an order came to be passed on 21.12.2017 suspending the fair price shop license as well as containing a show-cause notice wherein it was stated that on the basis of some inquiry conducted by Naib Tehsildar and Supply Inspector, certain irregularities were found. The name of the persons are stated in Para - 3 of the show-cause notice. The petitioner in pursuance to the said notice filed a reply on 15.01.2018 denying the allegations. Alongwith the said, the petitioner had annexed copies of the affidavits filed by the card holders deposing in favour of the petitioner and the petitioner had also annexed a copy of the supply register. By means of a subsequent application dated 09.01.2018, the petitioner sought a copy of the inquiry report, based upon which the suspension order was passed.

4. It is argued that the inquiry report was never provided to the petitioner and without providing the same, an order came to be passed cancelling the fair price shop license through an order dated 07.06.2018 (Annexure - 2). It is argued that the said order without providing for a copy of the inquiry report and without considering the submission of the petitioner is bad in law. It is further argued that the petitioner had preferred an appeal and in the appeal, a specific averment was made in Para - 8 with regard to non-supply of the inquiry report, however, the appellate authority without considering the same proceeded to

dismiss the appeal.

5. Learned Standing Counsel, on the other hand, tries to justify the order by arguing that the reasonings recorded in the impugned orders are based upon material perused by the licensing authority which requires no interference.

6. Considering the submissions made at the Bar, from perusal of the order it is revealed that the main ground taken by the licensing authority in cancelling the license was that the reply given by the petitioner was not found to be satisfactory; it was further recorded that the documents produced by the petitioner was not got verified in accordance with law, thus, holding that the petitioner was guilty of violating the conditions of the license.

7. From the entire order, there appears to be no consideration of the affidavits specifically filed by the petitioner in support of his defense. A finding has been recorded with regard to the documents submitted by the petitioner that the same were forged without there being any material to come to that conclusion. It has been further recorded that the register submitted by the petitioner was forged as the same was not numbered and was not got verified by the employee of the supply department.

8. *Prima-facie*, the reasonings recorded for cancelling the license in the impugned order are arbitrary and perverse. A non-speaking order has been passed solely on the ground that the reply submitted by the petitioner was not found to be satisfactory; the specific evidence given by the petitioner in the form of affidavits of the card holders, has not even been considered in the impugned order. Specific plea with regard to non-supply of the inquiry report has not been dealt with in either the cancelling order or the appellate order. The appellate order is equally silent with regard to the specific submissions and the documents submitted by the petitioner.

9. Thus, for all the reasons recorded above, the impugned orders dated 07.06.2018 and 28.12.2018 cannot be sustained and are quashed.

10. Respondents are directed to permit the petitioner to carry on with the shop in question.

11. The writ petition is ***allowed*** in above terms.

**Order Date :-** 17.10.2023  
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