

Court No. - 8

Case :- WRIT - C No. - 27054 of 2017

Petitioner :- Smt Jagrani

Respondent :- State Of U.P Thru Prin Secy Food And Civil Supply Lko And Ors

Counsel for Petitioner :- O.P. Tiwari, Manjusha Kapil

Counsel for Respondent :- C.S.C, Krishna Pratap Singh

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 24.06.2011, whereby the fair price shop license of the petitioner was cancelled as well as the appellate order dated 18.09.2017, whereby the appeal preferred by the petitioner was dismissed.
3. The fact in brief are that the petitioner was a fair price shop holder. On a complaint made against him by one Vishan Swaroop, an inspection was carried out on 30.03.2011 wherein certain discrepancies were found, as a result whereof, a show cause notice was sent to the petitioner on 20.04.2011 calling upon the petitioner to give a reply to the said show cause notice. As the petitioner did not give reply, an order came to be passed on 24.06.2011 cancelling the fair price shop license.
4. A perusal of the said order cancelling the fair price shop license reveals that the show cause notice was served on one Smt. Pushpa Devi, the person with whom the shop in question was attached after suspension. It is also mentioned that the copy of the show cause notice was sent through Nazarat to the petitioner and a report existed on record by the Nazarat given on 21.04.2011 to disclose that the show cause notice was served through affixation. It was further recorded that as no reply was filed, as such, considering the gravity of the charges, the license deserves to be cancelled. In the appeal, it was specifically pleaded that neither the petitioner was served with the show cause notice nor was the petitioner provided any of the alleged statements given by the cardholders, as referred to, in the show cause notice, however, the appellate authority without dealing with the said aspect proceeded to uphold the cancellation order and dismissed the appeal.

5. The Counsel for the petitioner states that in terms of the Government Order issued on 29.07.2004, which provides guidelines for disposal of the cancellation matter, the principles of natural justice have to be followed, whereas in the present case neither petitioner was served with the show cause notice nor were any of the statements or documents proposed to be relied upon against the petitioner ever served.

6. Thus accepting the first submission of the Counsel for the petitioner and from the perusal of the cancellation order, it is clear that principles of nature justice were not followed prior to cancellation of the fair price shop license. The petitioner was granted an interim order during the pendency of the appeal and was also granted an interim order by this Court vide order dated 13.12.2017, as such, on the ground of violation of principles of natural justice, both the orders dated 24.06.2011 and the order dated 18.09.2017 are quashed.

7. The writ petition is ***allowed***.

8. The shop in question shall stand restored in favour of the petitioner, if not already allotted by regular allotment.

Order Date :- 14.12.2023

akverma