

Court No. - 17

Case :- WRIT - C No. - 6503 of 2022

Petitioner :- Bramhadev Mahila Swayam Sahayata Samuh, Gonda Thru. President Kusum Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Food And Supply Deptt. Lko. And 5 Others

Counsel for Petitioner :- Ashish Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard Sri Ashish Kumar Singh, learned counsel for the petitioner as well as learned Standing counsel for the respondents.

2. By means of the present writ petition the petitioner has challenged the order dated 22.8.2022 passed by Sub Divisional Officer, Tehsil-Tarabganj, District Gonda whereby the proposal sent in favour of the petitioner-group has been rescinded. The ground stated in the said impugned order is that the said shop is reserved under the category of vertical reservation for other backward commission and in view of the horizontal reservation it is reserved for soldiers wounded/killed in war/ex-servicemen.

3. It has been submitted by learned counsel for the petitioner that with regard to allotment of fair price shop license of Gram Panchayat Durjanpur, Block Belsar, District - Gonda an open meeting was held by the Gram Panchayat on 30.6.2022 wherein proposal was passed in favour of the petitioner. The said proposal was sent to Tehsil Level Committee for scrutiny and examination and for forwarding their recommendation to the District Magistrate for allotment of the said fair price shop license. It was stated that the matter was duly considered by Tehsil Level Committee and while doing so they also considered the letter of the sitting MLA who had stated that the said fair price shop has been reserved for other backward class and for ex-servicemen and in the entire village there is no ex-serviceman and consequently opined that the shop may be reserved in favour of other backward class category.

4. The Tehsil Level Committee duly considered the proposal and was of the opinion that the said shop of gram panchayat Durjanpur was reserved for ex-servicemen belonging to other backward class category and accordingly it was found that petitioner's self help group did have more than fifty percent members of other backward class category but was not ex-servicemen association and consequently have rejected the

proposal made in favour of the petitioner.

5. Challenging the order dated 22th August, 2022 in the present writ petition it has been submitted by learned counsel for the petitioner that the proposal was rightly passed in favour of the petitioner, a self help group in as much as reservation order passed by Tehsil Level Committee on 5.8.2022 provides for reservation in favour of other backward class category and the name of Village Durjanpur finds mention at item No.07 therein and consequently submitted that in view of the order dated 5.8.2022 there is no infirmity in passing the proposal in favour of the petitioner.

6. Learned Standing counsel while opposing the writ petition has submitted that, in fact, relevant reservation order on the basis of which the allotment was to be considered was the order 21st April, 2023 passed by Sub Divisional Magistrate, Tarabganj, District Gonda in which the shop of Durjanpur has been reserved for other backward class category and for ex-servicemen. He further submitted that the reservation order which has been relied upon by the petitioner is dated 5.8.2022 was not even in existence on the date when the proposal of the petitioner was passed. It is stated that on 30.6.2022 the relevant reservation order was 21st April, 2022 and not 5.8.2022.

7. I have heard learned counsel for the parties and perused the records.

8. From the aforesaid it is evident that for appointing fair price shop dealer for Village Durjanpur, Block Belsar, Tehsil Tarabganj, District Gonda an open meeting of the gram panchayat was held on 30.6.2022. In the said meeting, the petitioner's name was duly forwarded to Tehsil Level Committee. The self help group of the petitioner is composed of 12 persons 10 of whom belong to other backward class category and according to the relevant government order petitioner's self help group can rightly be included in other backward class category.

9. The question to be decided in the present writ petition is as to whether reservation order dated 21.4.2022 was applicable in the selection of the petitioner or government order dated 5.8.2022 should have been followed ?

10. It is noticed that the meeting was held on 30.6.2022 on that date government order in existence was 21st April, 2022 and the order dated 5.8.2022 was not even in existence. Consequently, without much deliberations it may safely be concluded that the reservation order dated 21st April, 2022 was

relevant order which was existing on the date of the meeting of the gram panchayat and the said reservation ought to have been followed. According to the said order dated 21st April, 2022 the fair price shop license of the Village Durjanpur was reserved for other backward class category and also for ex-servicemen. Though the petitioner falls under the category of other backward class category but certainly it does not fall into the category of ex-servicemen and consequently by means of the impugned order it has rightly been recorded that petitioner's name could not have been included in the proposal forwarded by the Gram Panchayat. By means of reservation order dated 21.4.2022 only name as provided for in the reservation order could have been forwarded and the petitioner is not included in the ex-servicemen category and consequently name of the petitioner has rightly been excluded from future consideration.

11. In light of the above, this Court is of the considered opinion that there is no infirmity in the impugned order dated 22.8.2022. The petition being devoid of merits is accordingly **dismissed**.

12. It is, however, provided that in future in case the petitioner is eligible and falls under the requisite category of reservation its name shall be duly considered in accordance with law.

(Alok Mathur, J.)

Order Date :- 3.11.2023
RKM.