

Court No. - 12

Case :- APPLICATION U/S 482 No. - 9138 of 2023

Applicant :- Santosh Kumar Mishra

Opposite Party :- State Of U.P. Thru. Secy. Home, Lko. And Others

Counsel for Applicant :- Ambrish Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. On 21.09.2023, following order was passed.

"1. Heard learned counsel for the applicant as well as learned A.G.A. for the State.

2. The present application has been filed for quashing the entire proceeding of impugned summoning order dated 23.01.2023 in Criminal Case No.1443 of 2023, Case No.37 of 2023 arising out of Case Crime No.299 of 2020 U/s 3/7 of E.C. Act, Police Station-Mankapur, District- Gonda as well as charge-sheet dated 27.02.2021.

3. Learned counsel for the applicant submits that on the basis of incorrect facts, the proceeding was initiated against the applicant with the allegation that he violated the provisions of Fertilizer Control Order, 1973 and F.I.R. of the case in question was lodged against the applicant. He further submits that applicant challenged the order dated 31.08.2020 passed by competent authority, in which, it is mentioned that applicant violated the provisions of aforesaid control order; Appeal No.258/2020-21 was filed by applicant against the above order before Joint Director Agriculture (Fertilizer), U.P. and the same was allowed by order dated 03.03.2021 as no irregularity was found in the act of applicant. He further submits that charge-sheet was filed by Investigating Officer in the most mechanical manner. It is, thus, submitted that indulgence of this Court is necessary.

4. Learned A.G.A. opposes the prayer of applicant but he does not dispute this fact that order dated 31.08.2020 passed by competent authority was set aside by the appellate authority vide order dated 03.03.2021.

5. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of application as well as other relevant documents including the order passed by appellate authority, the matter requires consideration.

6. List this case on 06.11.2023.

7. In the meantime, District Agricultural Officer, Gonda may file counter affidavit.

8. On the next date, District Agricultural Officer, Gonda shall appear in person before this Court.

9. Until further order, the impugned proceedings shall remain stayed."

2. In pursuance of the aforesaid order, Mr. Jagdish Prasad,

District Agricultural Officer, Gonda is present and files counter affidavit, which is taken on record.

3. The Officers informs that in the departmental proceedings, nothing adverse was found against the applicant and the appeal was allowed on 03.03.2021.

4. Learned counsel for the applicant submits that the Investigating Officer filed the charge sheet in mechanical manner without disclosing the fact that as to what was the violation, as it is a case of misunderstanding of the legal provisions related to the procedure of the sale of fertilizers. It is, thus, submitted that the impugned proceedings are liable to be quashed.

5. Learned A.G.A. opposes the prayer of the applicant, but does not dispute the fact that there was irregularity in the procedure of sale of fertilizers. He also concedes the fact that the departmental appeal was allowed against the procedural irregularity committed by the applicant.

6. Considering the arguments advanced by the learned counsel for the applicant, learned A.G.A. and going through the contents of the application, counter affidavit and other relevant documents, it is evident that some procedural irregularity was found in selling the fertilizers, but no offence under Section 3/7 of E.C. Act is made out. It is also evident that the appeal is already allowed by the appellate authority.

7. In view of above facts and circumstances, this Court is of the view that the impugned proceedings are liable to be set aside.

8. The application, accordingly, stands allowed.

9. Summoning order dated 23.01.2023 in Criminal Case No.1443 of 2023, Case No.37 of 2023 arising out of Case Crime No.299 of 2020 U/s 3/7 of E.C. Act, Police Station-Mankapur, District- Gonda as well as charge-sheet dated 27.02.2021 are hereby set aside.

Order Date :- 6.11.2023/VKS