

Court No. - 17

Case :- WRIT - C No. - 8909 of 2023

Petitioner :- Shanti Devi

Respondent :- Joint Commissioner Food, Lucknow Division, Lko. And Another

Counsel for Petitioner :- Alok Singh, Shiva Nand Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard Sri Alok Singh, learned counsel for petitioner as well as learned Standing Counsel for respondents.

2. By means of present writ petition, the petitioner has challenged the order dated 27.07.2023 passed by Jt. Commissioner Food, Lucknow Division, Lucknow thereby dismissing the appeal preferred by the petitioner under Section 13(3) of Essential Commodities (Sale and Distribution) Order.

3. It has been submitted by learned counsel for petitioner that petitioner was given a license to run a fair price shop for gram Panchayat Afsaria, Block - Rampur Mathura, Tehsil Mahmoodabad, District Sitapur. Certain complaints were made against the petitioner and an inspection was carried out by the Supply Inspector on 14.05.2018 where it was found that the petitioner has excess food-grain which ought to have been distributed. Accordingly, it was found that petitioner was indulging in blackmarketing of foodgrain.

4. A show cause notice was issued to the petitioner and after giving the petitioner an opportunity of hearing her fair price shop was cancelled by means of order dated 29.08.2018.

5. The petitioner had challenged the order of cancellation dated 29.08.2018 by filing an appeal before the Jt. Commissioner Food, Lucknow Division, Lucknow in July, 2023 after a delay of nearly 5 years. The Jt. Commissioner Food, Lucknow Division, Lucknow has rejected the appeal on the ground of delay. While rejecting the said appeal, it was recorded that the delay has not been sufficiently explained by the petitioner.

6. Learned counsel for petitioner while assailing the order dated 27.07.2023 has submitted that petitioner was suffering from various ailments due to which she could not prefer appeal within the prescribed period of 30 days. In support of his submission, he has annexed several medical prescriptions issued by Rudransh Hospital & Surgical Center, Barabanki.

7. This Court has also perused the record and various prescriptions from which it is noticed that in June, 2020, petitioner has body pain and jaundice was diagnosed while the prescription dated 01.07.2020 does not indicate Jaundice

but indicates certain stomach disorder and similar is the case in prescription dated 11.07.2020 which in fact indicates that petitioner was fit and no fresh complications have been reported by the petitioner but for some unknown reasons, the said prescription has also been annexed in the writ petition which clearly demonstrates that the petitioner was fully fit as per the prescription dated 11.07.2020. Even the prescription dated 20.05.2021, 15.08.2021, 10.01.2022 & 20.11.2022 only indicate a minor stomach ailment. Even the medical certificate indicating her sickness obtained on 24.05.2023 does not inspire confidence as the doctor has only stated that petitioner was recurrently sick. The doctor certificate would unusually indicate the exact ailments rather than use a general word like sickness.

8. A perusal of the aforesaid prescriptions does not inspire confidence nor does it indicate that the petitioner was so sick that she was unable to avail statutory remedy of appeal.

9. This Court does not find that the appellate authority has erred in appreciating the application for condonation of delay filed by the petitioner. Before this Court also no sufficient cause has been indicated so as to condone the delay of 5 years which does not short period of delay but a substantial period of delay which ought to have been adequately explained. Though, this Court is liberal in condoning the delay but wherever the delay is of larger periods exceeding one to two years then the delay has to be explained to the due satisfaction of the Court.

10. Once any plausible reason is indicated then the Court would be lenient and shall condone the delay. But in the present case, the medical prescriptions produced by the petitioner firstly does not indicate any serious ailment and secondly the ailment if any was intermittent and for short duration and cannot be the sole reason which could preclude the petitioner from approaching the counsel and the appellate authority and even otherwise do not inspire confidence so as to rely upon the said certificates.

11. In light of the above, this Court does not find any infirmity in the impugned order, the writ petition is devoid of merits and is accordingly **dismissed**.

(Alok Mathur, J.)

Order Date :- 13.10.2023

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