

Court No. - 17

Case :- WRIT - C No. - 9323 of 2023

Petitioner :- M/S Shahbaz Husain And Company, Pilibhit Thru. Its Prop. Sahbaz Husain

Respondent :- State Of U.P. Thru. Prin. Secy. Agriculture, Lko. And 3 Others

Counsel for Petitioner :- Virendra Prasad

Counsel for Respondent :- C.S.C., Naresh Chandra Mehrotra

Hon'ble Alok Mathur, J.

1. Heard Shri Virendra Prasad, learned counsel for the petitioner, learned Standing Counsel appearing for respondent nos. 1 and 4 and Shri Prashant Kumar Singh, learned counsel appearing for the respondent nos. 2 and 3.

2. By means of the present petition, the petitioner has challenged the validity of the order dated 1.7.2023 passed by the Secretary, Krishi Utpadan Mandi Samiti, Pilibhit thereby cancelling the allotment of shop No. S-108 in Pilibhit.

3. From perusal of the record, it transpires that the petitioner had made a bid for purchase of shop. His bid was accepted and he had to deposit the consideration within a fixed time.

4. It is stated by learned counsel for the petitioner that the petitioner could not deposit the said amount and consequently, the respondents had issued notices to the petitioner that in case the amount as directed was not deposited, the allotment for the shop will be cancelled.

5. The petitioner approached this Court by filing a writ petition bearing Writ-C No. 23642 of 2022 which was disposed of by means of order dated 18.10.2022 with the following order:

"Supplementary affidavit filed today is taken on record.

The petitioners have challenged the order dated 07.06.2022 and notice dated 30.07.2022. The order dated 07.06.2022 has been passed by respondent no.3 in compliance of the order dated 08.04.2022 passed by this Court in Writ-C No.9343 of 2022 (M/s Sadik And Sons & Anr. vs. State of U.P. & 4 Ors.) directing the said respondent to decide the representation of the petitioners dated 25.02.2022. It has been observed in the impugned order that the petitioners were allottees of two separate shops, being the highest bidder, in an auction sale. They had only deposited 50% of the amount at the time of grant

of approval of the bid. The remaining amount was to be deposited within one week. In the event of default, the balance amount could be deposited in six months, but will carry interest @ 1% per month; failing which the allotment was liable to be cancelled. As the petitioners had failed to deposit even in six months, the notice dated 30.07.2022 requires them to deposit the remaining amount within 15 days, failing which the allotment will be cancelled. The petitioners have not deposited the balance amount so far.

Counsel for the petitioners states that the petitioners will pay the balance amount in two monthly installments i.e. 25% within one month from today and the remaining 25% within next two months.

Learned counsel appearing on behalf of Krishi Utpadan Mandi Samiti fairly does not oppose the proposal.

Accordingly, the petition stands disposed of in terms of the consensus noted above.

In case of default on part of the petitioners in depositing the amount as undertaken above, it shall be open to respondent nos.3 and 4 to proceed further in the matter in accordance with law."

6. Admittedly, the petitioner did not comply with the order of the Court and did not deposit 50% of the amount within time prescribed and consequently, notices were given to the petitioner to deposit the amount as directed by the High Court. Even after notices, the petitioner did not comply the order and consequently by means of order dated 1.7.2023, the Secretary, Krishi Utpadan Mandi Samiti, Pilibhit cancelled the allotment of the petitioner for the said shop. The petitioner being aggrieved by the said order has approached the revisional authority. The revisional authority also considering the fact that the petitioner has not paid the entire consideration for the said shop and also has not complied the order passed by the writ court rejected his revision.

7. Both the aforesaid orders have been challenged by the petitioner and it is stated by the learned counsel for the petitioner that the petitioner is ready and willing to deposit the entire amount to the respondents and accordingly, a direction should be issued to the respondents to accept the remaining consideration and also set aside the order of cancellation of the said shop.

8. The learned Standing Counsel on the other hand has opposed

the prayer made by learned counsel for the petitioner and stated that despite directions being issued by the Division Bench of this Court, the petitioner did not comply with the orders and did not deposit the amount as directed.

9. It is further stated that this Court had given liberty to the respondents to proceed further in the matter in accordance with law in case there is default in deposit of the said amount by the petitioner. Admittedly, the petitioner had defaulted the compliance of the order of this Court and consequently in accordance with law his bid/allotment has been cancelled.

10. I have heard the learned counsel for the parties and perused the record.

11. Considering the rival submissions, this Court is of the considered view that once the Division Bench of this Court has interfered with the matter with regard to the payment of the outstanding amount towards the bid made by the petitioner for purchase of the shop and fixed instalments at the request of the petitioner, but the petitioner himself did not comply with the direction of this Court. Any order passed at this stage would amount to modifying the direction of the writ Court. Therefore, no directions as prayed can be passed by this Court in the present proceedings.

12. At this stage, the learned counsel for the petitioner submits that he may be permitted to withdraw this writ petition with liberty to move an appropriate application for further directions and for modification of the order of this Court dated 18.10.2022 passed in Writ-C No. 23642 of 2022.

13. In light of the statement made by the learned counsel for the petitioner, the present writ petition is **dismissed as not pressed** with the liberty to move an appropriate application for redressal of grievance.

(Alok Mathur,J.)

Order Date :- 19.10.2023
Shravan