

Court No. - 17

Case :- WRIT - C No. - 9480 of 2023

Petitioner :- Hari Shankar Shukla

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

Counsel for Petitioner :- Dhananjai Kumar Tripathi

Counsel for Respondent :- C.S.C., Pankaj Gupta

Hon'ble Alok Mathur, J.

1. Heard Sri Dhananjay Kumar Tripathi, learned counsel for petitioner as well as learned Standing Counsel for respondent Nos. 1 to 4 and Sri Vikram Dutt, Advocate holding brief of Sri Pankaj Gupta, learned counsel for respondent Nos. 5 & 6.

2. By means of present writ petition, the petitioner has sought a direction to the respondent No. 3 to decide the representation dated 14.03.2023 annexed as Annexure No. 1 to the writ petition and further prayed that a direction be issued to the respondents to hold selection process for allotment of the fair price license for Village Panchayat - Karnapur Raja, Block and Tehsil - Mankapur, District Gonda after providing proper opportunity of hearing to the petitioner.

3. It has been submitted by learned counsel for petitioner that petitioner's wife is a candidate for allotment of fair price shop license at Village Panchayat - Karnapur Raja, Block and Tehsil - Mankapur, District Gonda which is scheduled to be held today i.e. on 31.10.2023 and also that his wife is also running a self help group.

4. It has further been submitted that by order dated 22.02.2023 passed by Block Development Officer, Mankapur, Gonda the said fair price shop has been reserved for person belonging to the other backward classes. The petitioner has moved a representation praying that the said shop should be reserved for general category candidate rather than being reserved for other backward classes. It is in the aforesaid circumstances a prayer has been made for a direction to the respondents to decide his representation.

5. Learned Standing Counsel on the other hand has opposed the writ petition and submits that petitioner has not challenged the order dated 22.02.2023 passed by Block Development Officer, Mankapur, Gonda whereby the said shop has been reserved for

other backward classes.

6. It is stated that merely on a representation made by the petitioner, the order dated 22.02.2023 cannot be undone and the reservation order cannot be annulled.

7. This court has heard learned counsel for parties and perused the record. It is clear that the petitioner has not challenged the reservation order dated 22.02.2023 and merely a representation has been made to the Block Development Officer sometimes in March 2022. The Block Development Officer, Mankapur, Gonda does not have any power to reserve the fair price shop in favour of any person as relevant government orders are there in this regard and after due exercise reservation orders are passed, and presently the said shop stands removed in favour of backward class.

8. Even otherwise, this court would not pass orders which cannot be complied with and the prayer as sought by the petitioner in the present case for deciding his representation which seeks to challenge the reservation of a fair price shop cannot be done till the order of reservation is set aside and a fresh reservation order is passed. It is open for the petitioner to challenge the reservation order to seek the prayer with regard to reservation in appropriate proceedings.

9. Subject to the aforesaid observations, this Court does not find any merit in the case accordingly the writ petition is dismissed.

(Alok Mathur, J.)

Order Date :- 31.10.2023

Ravi/