

Court No. - 8

Case :- WRIT - C No. - 10546 of 2023

Petitioner :- Smt. Arti @ Pooja

Respondent :- State Of U.P. Thru. Prin. Secy. Food And Civil Supply
Civil Sectt. Lko And 3 Others

Counsel for Petitioner :- Mahendra Kumar Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

1. Present petition has been filed on behalf of the subsequent allottee assailing the order in appeal dated 26.09.2023 as well as order dated 05.07.2022.

2. The facts, in brief, are that Opposite No.4 was a fair price shop dealer and his license came to be cancelled. The said was subjected to challenge by Opposite Party No.4. The challenge by Opposite Party No.4 to the cancellation proceedings resulted in his favour when the writ petition was allowed. On the writ petition being allowed, the allotment of the petitioner, who was a contingent allottee, was cancelled.

3. Contention of counsel for the petitioner is that as the petitioner was a subsequent allottee, he ought to have been heard in view of the law as laid down by the Supreme Court in the case of ***Ram Kumar versus State of U.P. & Ors.; Civil Appeal No.4258 of 2022*** decided on **28.09.2022**.

4. On perusal of the documents available on record, it is clear that on 22.01.2022, the petitioner was allotted the shop in question, however, in the allotment order itself it was mentioned that the allotment was subject to the outcome of the litigation instituted by the original allottee and would be subject to the outcome of the said litigation. As such, in terms of the allotment, the allotment in favour of the petitioner was not a regular allotment but a contingent allotment, contingent upon the outcome of the litigation instituted by the regular allottee.

5. In the case of ***Ram Kumar (supra)***, in Para - 11 itself, it was recorded that the appellant before the Supreme Court was a regular allottee and was not a contingent allottee, thus, the said judgment would be of no avail to the petitioner.

6. The petitioner having no absolute right was neither a necessary nor a proper party, as such, the petition cannot be entertained and is accordingly ***dismissed***.

Order Date :- 5.12.2023/nishant