

Court No. - 17

Case :- WRIT - C No. - 10694 of 2023

Petitioner :- Mohd. Sadik

Respondent :- Director, Rajya Krishi Utpadan Mandi Parishad, Lko. And 2 Others

Counsel for Petitioner :- Ranjana Srivastava

Counsel for Respondent :- Naresh Chandra Mehrotra

Hon'ble Alok Mathur, J.

1. Heard Ms. Ranjana Srivastva, learned counsel for petitioner as well as Sri Prashant Kumar Singh, learned counsel for respondent Nos. 1 & 2.

2. By means of present writ petition the petitioner has assailed the order dated 01.07.2023 passed by Secretary, Krishi Utpadan Mandi Samiti, Pilibhit which has been arrayed as respondent No. 2 and also challenged the order dated 23.08.2023 passed by Director, Rajya Krishi Utpadan Mandi Parishad, U.P., Lucknow who has rejected the revision of the petitioner.

3. It has been submitted by learned counsel for petitioner that petitioner was allotted a shop No. S-106 at Naveen Mandi Sthal, Fruit & Vegetable Unit, Pilibhit by respondent No. 2 on 05.07.2021. The petitioner had deposited 50% of the amount along with G.S.T. with respondent No. 2. Admittedly, the remaining amount could not be deposited and consequently in the aforesaid circumstances had filed a writ petition before the Division Bench of this Court at Allahabad being Writ C No. 23642 of 2022 which was disposed of by means of order dated 18.10.2022 in the following terms:-

"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."

4. It seems that petitioner could not deposit the said amount as directed by Division Bench of this Court in Writ C No. 23642 of 2022 and as a consequence thereof the respondents proceeded to cancel the shop allotted to the petitioner and the revision was also dismissed by respondent No. 1. It has been vehemently submitted by learned counsel for petitioner that the petitioner had suffered a heart attack on 29.01.2023 and consequently was incapacitated and hence could not comply with the directions of this Court. It is in the aforesaid circumstances, the petitioner has sought indulgence of this Court and submitted that petitioner is ready and willing to pay the outstanding amount.

5. Learned counsel for respondent on the other hand has opposed the writ petition. He has submitted that once the indulgence have been shown to the petitioner by Division Bench of this Court at Allahabad then only option for the petitioner is to move an appropriate application in the said writ petition as any direction issued by this Court would amount to modify the order of Division of this Court. He further submits that a Division of this Court in the case of Prakash has held that in case the jurisdiction lies in a matter before the Lucknow bench as well as Allahabad of this Court and the litigant has chosen to file the petition at Allahabad then the subsequent petition should also be preferred at Allahabad.

6. This Court after considering the rival contention of the parties is of the considered view that any order passed giving liberty to the petitioner to deposit outstanding amount would amount to modify the order dated 18.10.2022 passed Writ C No. 23642 of 2022 and consequently it would be appropriate that the petitioner moves an application in the said writ petition disclosing all the grounds for not complying with the directions passed in the said writ petition.

7. At this stage, learned counsel for petitioner submits that she may be permitted to withdraw this writ petition with a liberty to move appropriate application in the previous writ petition.

8. Learned counsel for respondent does not object to the aforesaid prayer.

9. Accordingly, the writ petition is dismissed as not pressed with the aforesaid liberty.

(Alok Mathur, J.)

Order Date :- 13.12.2023/Ravi/