

Court No. - 4

Case :- WRIT - C No. - 5293 of 2024

Petitioner :- Smt. Rama Devi

Respondent :- State Of U.P. Thru. Prin. Secy. Food And Civil Supplies, Lko.
And 2 Others

Counsel for Petitioner :- Satish Kumar Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Syed Qamar Hasan Rizvi,J.

Heard Shri Harendra Singh, Advocate holding brief of Shri Satish Kumar Sharma, learned counsel for the petitioner and Shri P.K. Singh, learned Additional Chief Standing Counsel appearing for the State-respondents.

The submission of the learned counsel for the petitioner is that the appeal bearing Appeal No.1898 of 2024 computerized case no.C202410000001898 (Ram Devi v. State of U.P. and others) under Section 13(3) of the Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 is pending before the Joint Commissioner (Food), Lucknow Division, Lucknow-respondent no.2.

Learned counsel for the petitioner submits that the licence of the petitioner for fair price shop was cancelled vide order dated 30.1.2024 passed by the District Supply Officer, District Sitapur-respondent no.3. He submits that the order of cancellation suffers from manifest error of law.

He submits that the petitioner has challenged the aforesaid cancellation order by preferring a statutory Appeal before the respondent no.2, which is still pending for adjudication. He contends that in the said Appeal he has also prayed for interim relief but the same has not been taken into consideration by the Appellate Court concerned till date.

Submission of the learned counsel for the petitioner is that once the statutory appeal has been entertained by the appellate court, it is incumbent upon the appellate court to consider and pass an appropriate order on the application for interim relief. He further contended that the Hon'ble Supreme Court in the case of *Mool Chand Yadav & another Vs. Raza Buland Sugar Co. Ltd. Rampur & others, reported in 1982 (3) SCC 484*, has held as under:

"..... But judicial approach requires that during the pendency of the appeal the operation of an order having serious civil consequences must be suspended. Moreso, when appeal is admitted. Previous history of litigation cannot be overlooked."

Further, this Court in the case of *Ali Sher Vs. State of U.P. through Collector*

Bijnor & others; reported in 2007 (102) RD 498, has held as under:

"It is well settled that once an appeal or revision is entertained by a higher Court against an order having civil consequences stay normally should be granted to avoid swinging pendulum unless the Court for the reasons to be recorded finds that there is no case for grant of stay as observed by the Hon'ble Apex Court in the case of ***Mool Chand v. Raza Buland Sugar Industries.***"

In view of the aforesaid situation this Court is of the opinion that no useful purpose would be served by keeping this writ petition. The writ petition is accordingly disposed of with a direction to the appellate court to decide the Appeal No.1898 of 2024 computerized case no.C202410000001898 (Ram Devi v. State of U.P. and others) pending before it, as expeditiously as possible. It is further provided that in case the petitioner choses to move a fresh application for interim relief within a period of ten days from today, the same shall be considered and decided by the court concerned in accordance with law by the next date fixed in the aforesaid Appeal or within a maximum period of two months from the date a certified copy of the order along with the above mentioned application is presented before it.

With the aforesaid observations the writ petition stands finally **disposed of**.

Order Date :- 7.6.2024

Anupam