

Court No. - 4

Case :- WRIT - C No. - 5527 of 2024

Petitioner :- Rajesh Kumar

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

Counsel for Petitioner :- Praveen Kumar Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Subhash Chandra Sharma,J.

1. Heard Sri Satish Kumar Sharma, learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State.

2. It is contented by learned counsel for the petitioner that in this case against the impugned order, an appeal is pending before the opposite party no.2 i.e. Joint Commissioner (Food), Lucknow Division, Lucknow since 29.05.2024 which was admitted but impugned order was not stayed and 05.07.2024 was fixed for hearing. In the meantime, the authority is to allot the shop to some other person, therefore, request to stay the operation of the impugned order till the disposal of the appeal. He also relied on the ratio given in the case of **Radha Rani Cold Storage Pvt. Vs. U.P. State Cold Storage Tribunal and others; 2009 (27) LCD 1391** and urged that the Commissioner ought to have suspended the lower court's order during pendency of the appeal otherwise the purpose would be frustrated, therefore, requested to stay the order in question in appeal. He also cited the order passed by co-ordinate Bench of this Court in Writ C No.5988 of 2022 dated 06.09.2022, in which, the order of cancellation of license of the fair price shop of the petitioner was stayed by this Court in appeal pending before the Deputy Commissioner and direction was given to decide the appeal expeditiously within a period of six weeks.

3. Learned A.C.S.C. for the State could not dispute the aforesaid position of law.

4. In view of ratio laid down in the aforesaid case and the direction passed by this Court as aforesaid, it is directed that the order of cancellation of the license of fair price shop shall remain stayed till the decision taken by the opposite party no.2 i.e. Joint Commissioner (Food), Lucknow Division, Lucknow, who is expected to decide the appeal expeditiously, say within a period of six weeks from today.

5. With this observation, the writ petition is ***disposed of.***

Order Date :- 24.6.2024

Arun