



2026:AHC:199592

Reserved on 15.09.2026
Delivered on 23.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 60931 of 2017

Shivnath

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s) : Bhagwan Dutt Pandey, Kamla singh, Vijay
Shanker Singh
C.S.C., Baijant Kumar Mishra, Chandan Yadav,
Counsel for Respondent(s) : Dipanshu Kushwaha, Juned Alam, Sanjay
Singh, Shiv Lal, Tariq Maqbool Khan

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Petitioner's father was a fair price shop dealer. On basis of an inquiry his licence was cancelled by an order dated 19.09.2013 passed by Sub-Divisional Magistrate, Tamkuhiraj and appeal thereof was also dismissed by an order dated 21.09.2015.

2. Father of petitioner had challenged aforesaid orders before this Court by filing Writ-C No. 61237 of 2015. During pendency of writ petition petitioner's father died and according to record, petitioner was impleaded as legal heir. Though it appears that it was not taken note of since when this writ petition was allowed vide order dated

14.12.2016 it was directed that agreement of fair price shop of petitioner therein, i.e., father of petitioner, be restored.

3. In pursuance of above order the Sub-Divisional Magistrate asked petitioner to appear vide a communication dated 23.01.2017 at this office so that proceedings for appointment of petitioner as a fair price shop dealer on inheritance basis be initiated.

4. Meanwhile, during pendency of aforesaid writ petition, shop was already allotted to another allottee, i.e., Kisan Sewa Sahkari Samiti and being aggrieved, order passed by a Coordinate Bench dated 14.12.2016 was challenged before a Division Bench of this Court by way of filing Special Appeal Defective No. 126 of 2017, however, it was dismissed vide an order dated 21.02.2017, being not maintainable.

5. In pursuance of above referred communication a close door meeting of Tehsil Level Committee was held on 28.03.2017 and fair price shop was allotted to petitioner in terms of Government Order dated 17.08.2002.

6. Aforesaid order was challenged by Kisan Sewa Sahkari Samiti, by filing Writ-C No. 19060 of 2017 that shop could be allotted to petitioner only on basis of open meeting of Gram Panchayat where reputation and goodwill of original dealer ought to have been considered. Accordingly, a Coordinate Bench of this Court has allowed said writ petition vide an order dated 22.05.2017 whereby allotment in favour of petitioner was cancelled and it was directed that an open meeting be conducted to consider reputation and goodwill of original dealer, i.e., father of petitioner.

7. An open meeting of Gram Panchayat concerned was conducted, however, instead to consider reputation and goodwill of original dealer, i.e., father of petitioner, it was decided that since shop was reserved for woman, therefore, applications were invited from female candidates only. According to record, petitioner's wife, Smt. Usha Devi participated in open meeting. It also appears that petitioner has not made any objection that open meeting be conducted only for purpose of considering reputation and goodwill of original dealer, i.e., father of petitioner.

8. In aforesaid open meeting dated 15.11.2017, Respondent-4, Smt. Rinki Devi was appointed as a new dealer and accordingly subsequent agreement was also entered after the proposal was approved by Block Development Officer concerned.

9. Aforesaid impugned resolution dated 15.11.2017 and recommendation order dated 18.11.2017 is challenged at behest of petitioner before this Court by means of present writ petition. Surprisingly, petitioner's wife, who has participated in said open meeting has not challenged aforesaid proposal and resolution despite probably being most aggrieved. An objection that petitioner would not be aggrieved by impugned orders is also an issue for consideration in this writ petition.

10. Ms. Kamla Singh, learned counsel for petitioner, submitted that challenge to allotment of fair price shop in favour of Respondent-4 is mainly on ground that her husband is a nephew of the then Pradhan and they have common household and common kitchen. She therefore, submitted that it would be contrary to a Government Order dated 17.08.2002. She further placed reliance on a judgment passed

by a Division Bench of this Court in the case of **Ram Murat and others vs. Commissioner, Azamgarh Division, Azamgarh and others, 2006(5) ADJ 396** as well as another judgment passed by a Division Bench of this Court in the case of **Subhash vs. State of U.P. and others, 2015(1) ADJ 113**.

11. Per contra, learned Standing Counsel appearing for State-Respondents has supported impugned orders that it was verified that Respondent-4 has a separate household and separate kitchen, therefore, there was no violation of any Government order.

12. Sri Sanjay Singh, learned counsel appearing for contesting-respondent has submitted that only petitioner's wife could be aggrieved by impugned resolution and recommendation, however, she has not filed this writ petition. Petitioner is a person of bad character and there are FIRs against him.

13. I have considered aforesaid submissions and perused the material available on record.

14. A challenge at behest of petitioner's father cancellation of his fair price shop licence remained successful, when a Coordinate Bench of this Court vide order dated 14.12.2016 set aside order of cancellation and subsequently allotment was made in favour of petitioner on inheritance basis, however, since it was on basis of a close door meeting, therefore, a challenge at behest of subsequent allottee before a Coordinate Bench of this Court remained successful as Writ-C No. 19060 of 2017 was allowed vide order dated 22.05.2017, whereby allotment made in favour of petitioner was set aside and a direction was passed to conduct an open meeting of Gram Panchayat.

15. According to record, it appears that instead to comply the order passed by a Coordinate Bench the Gram Panchayat concerned proceeded to conduct an open meeting to call applications for allotment of fair price shop from female candidates only since the shop in question was reserved for female. Admittedly, no objection was taken at that stage by petitioner, rather petitioner's wife filed an application for consideration and she also participated in open meeting, however, the allotment was made in favour of Respondent-4. Therefore, a submission on behalf of petitioner that the order dated 22.05.2017, whereby this Court has directed Gram Panchayat to conduct an open meeting to assess the reputation and goodwill of earlier dealer was not complied with, cannot be accepted since petitioner and his wife has taken a conscious decision to participate in open meeting and only when after her application was rejected, petitioner cannot challenge that earlier order passed in his favour by this Court was not complied with, rather he was estopped to raise such submission.

16. In aforesaid circumstances, only issue for consideration before this Court is, whether Respondent-4, being nephew of the then Pradhan, could be appointed as a fair price dealer or not.

17. However, an issue that this writ petition is not filed by petitioner's wife, who has participated in open meeting, therefore, a grievance of petitioner's wife could not be raised by her husband, i.e., petitioner herein, is also goes against petitioner's case since petitioner has no lis to challenge any grievance of her wife. Even petitioner's wife is not arrayed alongwith petitioner in this writ petition. Therefore, the writ petition may not maintainable at behest of petitioner.

18. The Court takes note that this writ petition is pending since 2017, i.e., for last about 9 years and pleadings were also exchanged, therefore, rival submissions are considered on merit also on last issue. However, since there is a specific stand of State-Respondents that Respondent-4 has separate household and separate kitchen, therefore, bar mentioned in Government Order dated 17.08.2002 would not hit allotment of fair price shop in her favour and only on a ground that in voter list address of contesting-respondent and then Pradhan was same, would not be a sole ground to reject allotment of shop in favour of Respondent-4. It was upto the petitioner to prove alongwith material that Respondent-4 has common household and common kitchen with the family of then Pradhan, however, except vague argument, no substantial material was placed on record by petitioner.

19. In aforesaid circumstances, even on merit, petitioner has no case.

20. Dismissed accordingly.

(SAURABH SHYAM SHAMSHERY, J.)

September 23, 2026

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