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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(103)

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Date of decision:- 14.05.2024

Hasan Mohd.

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Saleem Ahmed, Advocate, for the petitioner.

...

SUVIR SEHGAL, J. (Oral)

1. By way of present writ petition filed under Article 226/227 of the Constitution of India, petitioner has approached this Court *inter alia* for issuance of a writ in the nature of certiorari for quashing order dated 14.08.2023, Annexure P-5, and order dated 16.04.2024, Annexure P-6, passed by respondents No.3 and 2, respectively, whereby License of the petitioner's depot, has been cancelled and appeal has been dismissed.

2. Counsel for the petitioner submits that penal action has been taken against the petitioner on the basis of a politically motivated complaint. He submits that before passing impugned order, Annexure P-5,

Licensing Authority did not provide opportunity of hearing to the

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petitioner, although proviso of Clause 13 of the Haryana Targeted Public Distribution System (Licensing and Control) Order, 2022 (for short “of the Control Order”), specifically provides for grant of hearing. Another argument has been raised by him that the Appellate Authority has dismissed the appeal without determining it on merits.

3. Notice of motion.

4. On asking of the Court, Mr. Aman Bahri, Additional Advocate General, Haryana, accepts notice on behalf of the respondents. He has supported the action taken against the petitioner as well as the impugned orders.

5. I have heard counsel for the parties and considered their respective submissions.

6. Clause 13 (1) of the Control Order provides thus:-

“13. (1) No holder of a license issued under this Order shall contravene any of the terms or conditions of the license or of any control Order issued under the Act. If he contravenes any of the said terms or conditions, without prejudice to any other action that may be taken against him, supply shall be suspended immediately without giving any notice. If the licensing authority is satisfied that the Fair Price Shop Owner has contravened any of the conditions of the license or is not performing his duties properly such as:-



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(a) *not displaying upto date information on a notice board at a prominent place in the Shop on daily basis as defined in Section 9 of the order.*

(b) *not providing printed receipt of distributed commodities generated from POS device to the beneficiary,*

Then the licensing authority may take one or more actions against the licensee as mentioned below, namely-

(i) *forfeiture of security deposit in full amount or any part thereof, not less than two thousand rupees depending upon the gravity of contravention;*

(ii) *cancellation of license and forfeiture of security amount deposited by him;*

(iii) *registration of criminal case for diversion or embezzlement of Targeted Public Distribution System items and damaging of record maintained as per provisions of the Act or this Order;*

(iv) *the licensing authority shall pass a speaking order:*

Provided further that no order with regard to above mentioned penal action shall be made the licensee has been given a reasonable opportunity of being heard."

7. A perusal of the above Clause shows that the grounds on which the License of a fair price shop owner can be cancelled, have been

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specific. The grounds are qualified with a proviso, which provides that before taking any action against the License holder, he has to be granted a reasonable opportunity of hearing. Even otherwise, whenever an order is passed by an Administrative Authority, which results in adverse consequences, the affected party has to be heard. An examination of the impugned order, Annexure P-5, passed by respondent No.3, shows that no such opportunity has been afforded to the petitioner. Even the State counsel could not refer to any material or document to show that the mandatory provisions of the Control Order has been adhered to.

8. Insofar as the appellate order, Annexure P-6, is concerned, it is evident from its examination that the Appellate Authority has failed to consider any submission made by the petitioner. Rather, a perusal of the order shows that the Appellate Authority has simply endorsed the finding of the Licensing Authority without applying its mind. The order is cryptic and bereft of reasons. It has been held by the Supreme Court in *M/s Kranti Associates Pvt. Ltd. & another Versus Sh. Masood Ahmed Khan and others, 2010 (9) SCC 496*, that any order passed by the Administrative Authority has to be supported with reasons, as recording of reasoning is indispensable component of the decision making process. As such, both impugned orders cannot withstand the scrutiny of the Court and are hereby set aside.



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9. In view of the aforesaid, matter is remitted to the Licensing Authority – respondent No.3, to pass a fresh order after granting personal hearing to the petitioner and giving him an opportunity to produce any material that he intends to rely upon to support his submission. The Licensing Authority shall pass a reasoned order dealing with the submissions made by the petitioner. The necessary exercise would be concluded by respondent No.3, within a period of four months from the date of appearance of the parties.

10. Petition is disposed of.

11. Parties are directed to appear before respondent No.3, on 30.05.2024, at 10.00 a.m., for further proceeding in accordance with law.

12. It is clarified that the License of the petitioner shall be kept in abeyance till the time a fresh decision is taken by the Licensing Authority and would be dependent upon the outcome of the decision to be taken by him.

(SUVIR SEHGAL)
JUDGE

14.05.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes