Court No. - 7

Case :- WRIT - C No. - 2397 of 2023

Petitioner :- Durga Prasad
Respondent :- Addl. Commissioner,Administration Iind, Devipatan Division, Gonda And Another
Counsel for Petitioner :- Satendra Nath Rai,Jai Prakash Mishra
Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

1. Heard learned Counsel for the petitioner as well as learned Standing Counsel.

2. The present petition has been filed challenging the order dated 20.03.2021 whereby, the fair price shop license of the petitioner was cancelled as well as the order dated 09.02.2023 whereby, the appeal was dismissed.

3. The short submission of the Counsel for the petitioner is that the petitioner was served with the show cause notice dated 01.02.2021 making allegation with regard to the improper supply of essential commodities and non-maintenance of the stock register. The petitioner gave reply, however, without considering the said reply, as per the petitioner, coupled with the fact that it was noticed that the petitioner had not given any evidence in his defence, the order of cancellation came to be passed. In appeal, it was specifically pleaded that the statements of the persons, who were deposed against the petitioner had never supplied, however, the appeal was dismissed without considering the said submission.

4. The Counsel for the petitioner states that the inquiry report and the evidence collected and relied upon against the petitioner were never supplied to the petitioner as averred in para 16 of the writ petition.

5. Learned Standing Counsel based upon the averments contained in para 12 of the counter affidavit states that the petitioner never asked for any documents. This issue was considered in the case of Prahlad vs State of U.P. and others (Writ-C No.26735 of 2017) decided on 20.09.2023, in para 6 to the following effect:

*"**6**. It is in the light of aforesaid the respondents have filed an affidavit of*

Deputy Commissioner, Devi Patan Division, Gonda alongwith the affidavit copy of enquiry report has now been annexed alongwith the affidavit, wherein paragraph 7 it has been stated that petitioner was aware of the enquiry report and also that he never demanded copy of enquiry report and accordingly copy of enquiry report was not made available to him. It has come on record that copy of enquiry report was never given to the petitioner though it was the duty of the Prescribed Authority who was considering the reply of the petitioner to the charge sheet, to provide a copy of enquiry report to the petitioner. It was his duty to supply all the material collected by the authority on the basis of which charges were sought to be proved against the petitioner and non supply of copy of enquiry report clearly prejudiced the delinquent from defending himself against the said charges. Once it is borne on record that enquiry report was not given to the petitioner, clearly it is made out that enquiry was conducted in violation of principles of natural justice and such an enquiry cannot be sustained."

6. Considering and following the law with regard to the supply of documents and finding that in the present case it is admitted that the relied upon documents were never supplied, the order dated 20.03.2021 (Annexure-3 to the writ petition) and order dated 09.02.2023 (Annexure-1 to the writ petition) are quashed.

7. The matter is remanded to the Licensing Authority to pass a fresh order after supplying the copies of the inquiry report and the statements proposed to be relied upon against the petitioner. The opportunity of hearing shall also be provided to the petitioner.

8. The writ petition is ***allowed partly*** in the abovesaid terms.

Order Date :- 3.12.2024
akverma

Digitally signed by :-
ASHOK KUMAR VERMA
High Court of Judicature at Allahabad,
Lucknow Bench