



CWP-23489-2023

-1-

209

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

CWP-23489-2023

Date of Decision: 23.07.2025

Shivam Jindal

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vijay K. Jindal, Advocate for the petitioner.

Ms. Neha Sonawane, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of *mandamus/certiorari* for quashing the impugned order dated 04.07.2023 (Annexure P-11) holding petitioner fully entitled for transfer of fair price shop licence and also for issuance of a direction to the respondents to transfer fair price shop licence in the name of the petitioner.

2. Learned counsel for the petitioner submitted that it is a case where grandmother of the petitioner, namely, Smt. Ram Murti Devi was holding a fair price shop licence No.337. However, the grandmother of the petitioner passed away and in this way the petitioner moved an application/representation for transfer of the aforesaid licence to him which was permissible under the law subject to fulfillment of all the eligibility conditions. When the aforesaid representation/application was filed by the petitioner, the same was filed after about 3 years and 8 months of the death of his grandmother. As per the Instructions dated 12.08.2022 issued by the Government of Punjab vide Annexure P-12, such representation/application

**CWP-23489-2023****-2-**

is required to be filed within a period of one month and was extended to three months and at the same time, it was so incorporated in the aforesaid Instructions (Annexure P-12) that in case the application is moved to the District Controller after expiry of the aforesaid period, then the representation/application is to be forwarded to the Head Office for consideration for transfer of ownership in the name of the legal heirs. He submitted that in this way if the representation for transfer of ownership in the name of legal heirs is made within a period of three months, then the same is to be referred to the District Controller, who is to decide upon the representation and in case it is beyond the aforesaid period of 3 months, then the District Controller will forward the same to the Head Office and thereafter, the Head Office is to consider the aforesaid aspect of transfer by passing an order.

3. Learned counsel for the petitioner further submitted that however in the present case although the petitioner filed the representation/application after the expiry of three months because it was preferred after about 3 years and 8 months which was no doubt beyond the expiry of period of limitation so prescribed vide Annexure P-12 but at the same time in consonance with aforesaid Annexure P-12, it ought to have been forwarded to the Head Office for further consideration and thereafter, any appropriate order should have been passed by the Head Office. He submitted that however in the present case when the petitioner had filed an application/representation before the District Controller/Deputy Director, Food Civil Supplies and Consumer Affairs, Malerkotla, his representation has been dismissed on the ground that it has been filed after a delay of 3 years and 8 months which was totally contrary to the aforesaid

**CWP-23489-2023****-3-**

order/Instructions (Annexure P-12) and further submitted that interestingly, the Deputy Director, who passed the impugned order of dismissing the representation on the ground of limitation herself referred to the aforesaid Instructions dated 12.08.2022 (Annexure P-12) and after referring the same, still dismissed the same on the ground of limitation instead of forwarding the same to the Head Office and in this way acute prejudice has been caused to the petitioner and he has been deprived of his livelihood for the last about 7-8 years because of the aforesaid impugned order being passed which is totally contrary to the Instructions issued by the State of Punjab itself. He also submitted that the prayer of the petitioner is that the representation/application filed by him ought to have been forwarded to the Head Office and the Head Office was to consider the same in accordance with law and pass an order as to whether the petitioner was entitled for transfer of the licence in his name or not but the Deputy Director by passing the impugned order could not have dismissed the application/representation on the ground of limitation being contrary to the Instructions (Annexure P-12). He submitted that in view of the above, the impugned order is liable to be set aside and a direction may be issued to the respondent/State particularly to the Head Office to take up the representation/application filed by the petitioner and to decide the same expeditiously in accordance with law.

4. Ms. Neha Sonawane, learned DAG, Punjab while referring to the reply has submitted that as per the reply the petitioner was not eligible for getting transfer of the ownership because of the reasons mentioned in the reply. She also submitted that since as per the reply the petitioner has filed the representation after the period of limitation of 3 months, the same was



CWP-23489-2023

-4-

therefore rejected by the Deputy Director/District Controller, Food Civil Supplies and Consumer, Affairs, Punjab.

5. I have heard the learned counsels for the parties.

6. The facts of the present case are very interesting and show very sorry state of affairs as well. The Instructions (Annexure P-12), which are issued by the Punjab Government, Department of Food Civil Supplies and Consumer Affairs, are reproduced as under:-

ANNEXURE P-12

**PUNJAB GOVERNMENT
FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
DEPARTMENT (FOOD DISTRIBUTION BRANCH)**

To

1. *All Deputy Directors (Field),
Food Civil Supplies and Consumer Affairs in Punjab State*
2. *All District Controllers, Food Civil Supplies and
Consumer Affairs in Punjab State.*

Memo No. 3FS (E-File No. 333908)-2022/1118

Dated 12.08.2022

Subject: Amendment for forwarding application on behalf of legal heirs for change of ownership after the death of depot holder.

On the aforementioned subject, in reference to this office letter No. 4FS(2797)-2020/2933 dated 10.12.2020.

In reference to the letter mentioned in the subject, the period fixed for transfer of ownership of fair price shop after the death of owner has been extended from 1 month to 3 months. Simultaneously, the instructions are being issued for all establishments in Field and informed in writing so that after the death of depot holder, the eligible family member/legal heirs may move for transfer of ownership in time, and complete all necessary requirements as per policy, and it may be ensured to take the necessary action and complete all requirements and forwarded the cases to



CWP-23489-2023

-5-

District Controller within fixed time. The representations received after the expiry of the fixed period be forwarded to Head Office for consideration for transfer of ownership, in the name of the heirs.

*Sd/-
Joint Director (Food Distribution)
For Director Food Civil Supplies and Consumer Affairs
Punjab, Chandigarh*

7. The impugned order dated 04.07.2023 (Annexure P-11) is also reproduced as under:-

“ANNEXURE P-11

2415704/2023/FOOD DIS

***PUNJAB GOVERNMENT
DEPARTMENT OF FOOD CIVIL SUPPLIES AND
CONSUMER AFFAIRS
(FOOD DISTRIBUTION BRANCH)***

ORDER

District Food and Supply Controller, Malerkotla on the representation made by Sh. Shivam Jindal S/o Sh. Ashok Kumar Jindal R/o Village Bagrian, Tehsil and District Malerkotla for transfer of ownership of fair price shop license No. 337 in his name which was on the name of his grandmother Smt. Ram Murti W/o Sh. Hans Raj, Depot Holder and after the death 3 years 8 months had already passed. The advice was sought for next necessary action.

In this case, depot holder expired on 13.07.2017. The license of the depot holder was valid upto 31.03.2020. The applicant Sh. Shivam Jindal forwarded representation dated 31.03.2021 to District Office, Malerkotla for transfer of the ownership of the fair price shop in favour of his name. Thus this representation was made after about 3 years 8 months and to explain the delay, the applicant has submitted his affidavit dated



CWP-23489-2023

-6-

10.04.2023. As per affidavit, he met with an accident while he was on motorcycle on 02.02.2018 and for this reason he was not in a position to apply in time and that the applicant also stated that he had no other source of income in his family.

Before deciding the representation, the applicant was directed by this office letter No. 6FS(E-File No. 456484/2023/567470 dated 26.05.2023 for personal hearing. During hearing, he repeated all the earlier facts in his affidavit and requested to transfer the ownership of the depot in favour of his name.

As per the instructions issued by the Department dated 12.08.2022 after the death of depot holder to forward application for transfer, period of 1 month was fixed but the same was enhanced to 3 months. In respect of the case in hand, the applicant for transfer of the ownership has forwarded the application after 3 years 8 months of the death of depot holder. Keeping in view the facts and circumstances and the instructions of the department, I, Sweety Devgan, Deputy Food Civil Supplies and Consumer Affairs, keeping in view the order No. PA/DFS/2023/806 dated 25.01.2023 of Director, Food Civil Supply and the Punjab Targeted Public Distribution System (Licensing and Control) Order, 2016 in exercise of my powers being District Controller. Malerkotla order to dismiss the representation filed by Sh. Shivam Jindal.

*Chandigarh
Dated: 04.07.2023*

*Sd/-
Deputy Director (Food Distribution)
Food Civil Supplies and Consumer
Affairs, Punjab, Chandigarh”*

8. A perusal of the Instructions (Annexure P-12) which were issued prior to the impugned order, would show that it has very clearly been

**CWP-23489-2023****-7-**

stated that the period for preferring the representation for transfer of ownership to the legal heirs is 3 months and in case the representation was moved after the prescribed period, then the same will be forwarded to the Head Office. The District Controller/Deputy Director in the last para of the impugned order herself referred to the aforesaid Instructions and at the same time, instead of forwarding the same to the Head Office for consideration in accordance with Instructions dismissed the same. Such kind of approach of the Deputy Director is not only contrary to the aforesaid Instructions which she herself has referred to but it also violates the rights of the petitioner under Article 21 of the Constitution of India since the petitioner was only seeking consideration of transfer of ownership of a fair price shop for earning his livelihood. The matter is now almost 8 years old and as per the learned counsel for the petitioner, the petitioner is suffering because of the aforesaid illegal and perverse order being passed by the Deputy Director/District Controller.

9. It is not understood that as to how even after referring to the Instructions dated 12.08.2022 wherein categorically it has been provided that when a representation is filed after a period of 3 months, it has to be referred to the Head Office, then in the same breath the Deputy Director has dismissed it instead of referring it to the Head Office. Learned State Counsel by referring to the reply has so stated that her stand is still the same as mentioned in the reply and as per the reply, the petitioner was not eligible for getting the licence transferred in his name. Once there has been no application of mind by the Competent Authority as to whether the petitioner was eligible or not it is not understandable as to how in the reply such ground has been taken without even passing an order or without any

**CWP-23489-2023****-8-**

application of mind. It was the duty of the officer of the State to have considered the representation in accordance with Annexure P-12, which are their own Instructions but unfortunately in the reply filed by some other Deputy Director, preliminary objections have been taken that the petitioner is not eligible. It is therefore clear that the respondent/State has abused the process of law.

10. Consequently, the present petition is allowed. The impugned order dated 04.07.2023 (Annexure P-11) is hereby set aside and quashed. Respondent No.1 or respondent No.2 out of which whosoever is coming within the expression 'Head Office' shall now consider the representation of the petitioner for the transfer of ownership to him after requisitioning the entire record from the Deputy Director and thereafter, after hearing the petitioner shall pass a speaking order with regard to the claim made by the petitioner in the representation and in accordance with law.

11. Considering the aforesaid fact wherein the impugned order (Annexure P-11) passed by the Deputy Director *ex facie* is totally illegal and perverse order, contrary to their own Instructions (Annexure P-12), the petition stands allowed with ₹25,000/- (Rupees Twenty Five Thousand only) as costs which shall be paid by the Deputy Director herself, who has passed the impugned order and not from the State Exchequer within a period of two months from today.

23.07.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |