2026:AHC:208654

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 40478 of 2026

Smt. Tarawati

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Shailendra Kumar Ojha, Shyam Surat Shukla
Counsel for Respondent(s)	:	Amit Singh, C.S.C.

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Heard Sri S.S. Shukla, learned counsel for petitioner, learned Standing Counsel and Sri Amit Singh, learned counsel for respondents.

2. The petitioner before this Court is a subsequent allottee and since in earlier round of litigation, an appeal filed by contesting respondent was allowed and his license of fair price shop was restored, therefore, petitioner has approached this Court by way of filing a Writ C No. 35327/2025 which was disposed of by following order dated 25.11.2025 :-

> *"1. Heard Sri Shyam Surat Shukla, learned counsel for the petitioner, learned Standing Counsel for respondent nos.1, 2 and 3 and Sri Ramesh Kumar Singh, learned counsel for respondent no.4.*
>
> *2. Present writ petition has been filed challenging the order of respondent no.2, Deputy Commissioner (Administration) Food and Civil Supply, Agra dated 02.09.2025 passed under Order 13(1) of the Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016.*
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> *3. It is contended by learned counsel for the petitioner that the fair price shop dealership of the respondent no.4 was initially cancelled on 23.10.2020 pursuant to which the petitioner was allotted the fair price shop on 27.11.2020. The appeal filed by respondent no.4 against the order of cancellation was allowed by order dated 12.04.2021 and the matter was remanded to respondent no.3, Sub-Divisional Magistrate*

Math, Tehsil Math, District Mathura to be decided afresh. Pursuant to the remand order, respondent no.3 cancelled the fair price shop dealership of respondent no.4 by his order dated 12.04.2021.

4. Aggrieved by the aforesaid order, respondent no.4 filed an appeal under Order 13(1) of the Order, 2016 on 21.06.2021, which has been allowed by the order impugned dated 09.02.2025.

5. It is contended by the learned counsel for the petitioner that despite having knowledge of the fact that fresh allotment had been made in favour of the petitioner during the pendency of the earlier appeal filed by respondent no.4 challenging the order dated 23.10.2020, she was not made party to the proceedings subsequent to it. The appeal filed by the respondent no.4 challenging the subsequent order of respondent no.3 dated 21.06.2021, she was not made party, which has now been allowed behind her back.

6. In support of his contention, learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court passed in the case of Ram Kumar Vs. State of Uttar Pradesh and others, reported in 2022 (11) ADJ 229.

7. On the other hand, learned counsel for respondent no.4 has supported the order of respondent no.2 and contended that a categorical finding has been recorded in the order under challenge observing that four out of six complainants were not the card holders of the said village. Therefore, the entire proceedings initiated against respondent no.4 stood vitiated. However, he could not dispute the law laid down by the Hon'ble Supreme Court in the case of Ram Kumar (supra).

8. Heard learned counsel for the parties and perused the record.

9. It is evident from the facts of the case that immediately after cancellation of the fair price shop dealership of respondent no.4 the petitioner was allotted the fair price shop on 27.11.2020. After the appeal of respondent no.4 was allowed by respondent no.2 on 12.04.2021, the petitioner ought to have been impleaded in the proceedings before respondent nos.2 and 3.

10. As the Supreme Court in the case of Ram Kumar (supra) has held that even if a subsequent allottee does not have an independent right, he/she have still right to have been heard and make submissions defending the order of cancellation.

11. In view of above, the petitioner was a necessary party to the proceedings before the respondent no.2.

12. In the facts and circumstances of the case, the writ petition is partly allowed. The order of respondent no.2 dated 02.09.2025 is set aside and the respondent no.2 is directed to decide the appeal afresh after impleading the petitioner as an opposite party in it. The petitioner shall appear before the respondent no.2 with her objection within two weeks from today. The respondent no.2 shall pass a fresh order strictly in accordance with law within a period of two months thereafter."

3. In pursuance of above order, the Appellate Authority heard the matter afresh after hearing petitioner also, however, by the impugned order, the appeal was allowed and it was mentioned that order dated 02.09.2025 which was already set aside by this Court, as referred above, was not restored.

4. In the impugned order, a finding was returned that petitioner was not an aggrieved party except that there is no discussion to objections of petitioner being subsequent allottee, therefore, impugned order will not survive in present form, accordingly, is set aside.

5. Court also takes note of order passed by Sub-Division Magistrate concerned whereby license of fair price shop of contesting respondent was cancelled and it would be necessary to observe that there was no independent application of mind, however, observation is tentative since by present order, matter is remitted back to Appellate Authority to pass a reasoned order on basis of material available considering rival submissions and nature of order passed by concerned SDM. Aforesaid exercise shall be concluded within 15 days from today.

6. In case of default on part of petitioner, matter is adjourned, the license issued to subsequent allottee i.e. petitioner shall be kept in abeyance till

final order is passed.

7. Writ petition stands **disposed of** with above observations/directions.

(Saurabh Shyam Shamshery,J.)

October 6, 2026
N. Sinha

Digitally signed by :-
NIRMAL SINHA
High Court of Judicature at Allahabad