2026:AHC:209597

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 40583 of 2026

Sher Ali

.....Petitioner(s)

Versus

State Of U.P. And 6 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Amit Kumar Pandey
Counsel for Respondent(s)	:	C.S.C., Garvit Ramchandran, Manoj Kumar Singh, Pradeep Singh, Ram Chandra Srivastava

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Heard Sri Amit Kumar Pandey, learned counsel for the petitioner, Sri Pradeep Singh, learned counsel for the respondent no.5 and Sri Ram Chandra Srivastava, learned counsel for the respondent no.6.

2. This case is arising out of a dispute in regard to allotment of a fair price shop of the year 2015, wherein the petitioner as well as contesting respondent have participated in the selection process, however, allotment was made in favour of petitioner. Subsequently, it was challenged and finally vide an order dated 15.10.2025, license was restored in favour of the petitioner by a cursory and small order, and petitioner was granted permission to distribute the food grains, but no specific reason was assigned despite the matter was remanded to decide it on merit. For reference, order dated 15.10.2025 is reproduced hereinafter:

"आदेश

वाद संख्या-697/2025 शेरअली बनाम उप जिलाधिकारी औराई, जनपद-भदोही में पारित आदेश दिनांक-25.06.2025 में मा० न्यायालय अपर आयुक्त (न्यायिक) विन्ध्याचल मण्डल मीरजापुर ने निम्नानुसार आदेश पारित किया गया है-

"आदेश किया जाता है कि प्रस्तुत अपील स्वीकार की जाती है। ग्रामसभा-दलापुर , विकास खण्ड-भदोही, तहसील-औराई के उचित दर दुकान के आवंटन/नियुक्ति सम्बन्धी तहसील स्तरीय दुकान चयन समिति का प्रस्ताव दिनांक-06.02.2025 एवं उप जिलाधिकारी औराई द्वारा पारित आदेश दिनांक-18.02.2025 निरस्त

किया जाता है। आदेश की प्रमाणित प्रति के साथ प्रकरण से सम्बन्धित पत्रावली को इस निर्देश के साथ प्रत्यावर्तित की जा रही है कि उप जिलाधिकारी औराई प्रकरण में संगत अधिनियम/नियम एवं समय-समय पर निर्गत शासनादेशों के कम में प्रकरण का निस्तारण गुण दोष के आधार पर दो माह में करें" जिसके क्रम में कार्यालय पत्रांक-307/उप०जि०अ०-आपूर्ति/अभिलेख प्रस्तुत/2025, दिनांक -15 सितम्बर, 2025 द्वारा श्री शेर अली पुत्र श्री फत्ते मोहम्मद, ग्रामसभा-दलापुर, विकास खण्ड भदोही, तहसील-औराई, जनपद-भदोही को पत्र प्रेषित कर साक्ष्य प्रस्तुत करने हेतु समुचित सुनवाई का अवसर दिया गया। जिसके क्रम में श्री शेर अली उपरोक्त द्वारा दिनांक-18.09.2025 को अपना जवाब प्रस्तुत किया गया। श्री शेर अली पुत्र श्री फत्ते मोहम्मद, ग्रामसभा-दलापुर, विकास खण्ड भदोही द्वारा प्रस्तुत जवाब व पत्रावली के अवलोकन एवं मा० न्यायालय अपर आयुक्त (न्यायिक) विन्ध्याचल मण्डल मीरजापुर द्वारा पारित आदेश दिनांक-25.06.2025 के अनुपालन में विक्रेता श्री शेर अली पुत्र फत्ते मोहम्मद, निवासी ग्रामसभा-दलापुर, विकास खण्ड-भदोही, तहसील-औराई, जनपद-भदोही की दुकान का अनुबन्ध पत्र बहाल करते हुए आवश्यक वस्तुओं का उठान/वितरण करने की अनुमति प्रदान की जाती है तथा दिनांक-25.06.2025 व 18.09.2025 को श्री शेर अली निवासी ग्रामसभा-दलापुर, विकास खण्ड-भदोही, तहसील-औराई, जनपद भदोही द्वारा प्रस्तुत प्रत्यावेदन/जवाब का निस्तारण किया जाता है। यह आदेश तत्काल प्रभावी होगा।”

3. Above referred order dated 15.10.2025 was thereafter challenged by the contesting respondent by way of filing an appeal which was allowed vide an order dated 2.6.2026 and the matter was again remanded to the licensing authority to decide it afresh.

4. The said order dated 2.6.2026 was challenged at behest of petitioner before this Court by filing a Writ Petition No.27573 of 2024, wherein following order was passed on 21.7.2026:

“1. Heard Sri A.K. Pandey, learned counsel for petitioner, learned Standing Counsel and Sri R.C. Srivastava, learned counsel for respondents.

2. It is well settled that the order of remand shall not be made in a very cursory manner and since in present case, the appeal filed by contesting respondent in a case arising out of Uttar Pradesh Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 filed by respondent has been

allowed and matter is remanded back despite, in earlier round of litigation, matter was decided on remand, therefore, instead of remanding the matter, concerned Appellate Authority ought to have decided the matter on its own on merit.

3. I have perused operative portion of impugned order and it only states that proceedings for allotment were not carried out on basis of legally procedure prescribed.

4. In aforesaid circumstances, impugned order is set aside and matter is remitted back to Appellate Authority to decide it on merit expeditiously in accordance with law.

5. Writ petition stands disposed of with above observations."

5. In pursuance of aforesaid order, Appellate Authority has now passed the impugned order dated 11.9.2026, whereby petitioner's claim was rejected, whereas claim of the contesting respondent was accepted and she was directed to be appointed as a fair price shop dealer.

6. In pursuance of aforesaid order, an allotment order is being issued in favour of the contesting respondent on 29.9.2026 i.e. after present writ petition was filed.

7. In the aforesaid circumstances, petitioner has challenged the order dated 11.9.2026.

8. Learned counsel for the petitioner submitted that it is not disputed that petitioner has passed Class 7th at relevant time in terms of relevant Government Order, only requirement was to have an education so much as that licensee may conduct day to day work.

9. In regard to question of reservation, learned counsel for the petitioner submitted that due procedure was followed at the time of allotment of fair price shop, wherein only three persons have participated i.e. petitioner, contesting respondent nos.5 and 6 and after consideration, a resolution was adopted in favour of the petitioner, therefore, there was no irregularity or illegality.

10. Learned counsel for the petitioner further submitted that respondent nos.5 or 6 have not challenged the aforesaid order after more than two years.

11. Per contra, learned counsel for the respondents submitted that matter was repeatedly remanded only for the purpose to consider as to whether prevailing reservation policy was followed or not during allotment process, therefore, now Appellate Authority on directions of this Court has decided the matter after considering all aspects that allotment made in favour of the petitioner was contrary to procedure prescribed, whereas contesting respondent was the most eligible person since not only she was educated, but she falls within category of reservation for woman and Scheduled Tribe.

12. Heard learned counsel for the parties and perused the records.

13. As referred above, dispute in the present case was in regard to allotment of a fair price shop of the year 2015 and even after a decade, dispute is not settled. So far as educational qualification of petitioner is concerned, according to Government Order dated 17.8.2002 i.e. prevailing at relevant time, only criteria was to have education so that a licensee may conduct day to day work and no minimum educational prescribed. For reference Clause 10 (c) of Government Order dated 17.8.2002 is reproduced hereinafter:

> “10 (ग) शिक्षित हो ताकि वह दुकान का हिसाब किताब कर सके।“

14. So far as other issue i.e. reservation is concerned, only finding in impugned order was that, at the time of selection, claim of the contesting respondent being a woman and Scheduled Tribe was not considered. So far as other criteria is concerned, were neither referred in the impugned order nor was discussed.

15. In the aforesaid circumstances, even after the Appellate Authority comes to a conclusion that claim of the petitioner does not survive, it would not mean that claim of the contesting respondent would be justified without further consideration since criteria of reservation has to be reconsidered and that can be reconsidered only by the Gaon Sabha during a fresh allotment since earlier allotment took place about about a decade ago.

16. Court also perused the consideration made by the Tehsil Level

Selection Committee which does not describe any reason as to why petitioner was selected and others were rejected, therefore, operative part of the impugned order that now fair price shop should be allotted to the contesting respondent would not survive, accordingly said part of impugned order is set-aside, therefore, impugned order dated 11.9.2026 is modified to the extent that now allotment of fair price shop shall be conducted afresh on basis of prevailing Government Order.

17. The petitioner as well as contesting respondent are at liberty to participate in it along with any other participants and for that concern authority is directed to initiate process for fresh selection in terms of Government Order and Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016.

18. Aforesaid exercise shall be concluded within a period of three months.

19. Writ Petition No.21438 of 2025 be listed after two weeks for final hearing.

20. Present Writ Petition is accordingly disposed of.

(Saurabh Shyam Shamshery,J.)

October 7, 2026
SB

Digitally signed by :-
SANDEEP BHATTACHARYA
High Court of Judicature at Allahabad