

(2017) 02 AHC CK 0037

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 74777 of 2010

Amar Pal Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 15-02-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 5 ADJ 378

Hon'ble Judges : Surya Prakash Kesarwani, J.

Bench : Single Bench

Advocate : Civil Misc. Writ Petition No. 74777 of 2010; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Y.K. Sinha, Advocates, for the Respondents; Civil Misc. Writ Petition No. 74772 of 2010; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 74774 of 2010; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 75248 of 2010; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 8168 of 2011; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 8169 of 2011; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 69084 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 69085 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 69086 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 69093 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Arun Kumar Srivastava, Advocate, for the Respondent; Civil Misc. Writ Petition No. 3663 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 3661 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 3658 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 3655 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 3652 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 3676 of 2016; Sanjay Singh, Advocate,

for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 5604 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 5623 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 23675 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 23678 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 23679 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocate, for the Respondent; Civil Misc. Writ Petition No. 6132 of 2017; Rajeev Kumar, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 5534 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 10050 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 10052 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 10054 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 10055 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 52561 of 2013; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 390 of 2016; Rajendra Pal Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 406 of 2016; Rajendra Pal Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 9247 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 11483 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 11484 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 11485 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 11489 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 11490 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 11491 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 11492 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Arun Kumar Srivastava, Advocates, for the Respondent; Civil Misc. Writ Petition No. 11493 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 12722 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 12725 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 12727 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 12730 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 12732 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ

Petition No. 12735 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 12737 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 13757 of 2016; Rajeshwar Singh and Ram Janam Singh, Advocates, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 17026 of 2016; Rajeshwar Singh and Ram Janam Singh, Advocates, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 17028 of 2016; Rajeshwar Singh and Ram Janam Singh, Advocates, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 18367 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 18665 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 20224 of 2016; Daya Shankar Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 22615 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C., Rajesh Yadav, Advocate, for the Respondent; Civil Misc. Writ Petition No. 21887 of 2016; Rajeshwar Singh, Ram Janam Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 22842 of 2011; Rajeshwar Singh, Advocate, for the Petitioner; C.S.C, for the Respondent; Civil Misc. Writ Petition No. 26083 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 34083 of 2016; Amit Malik, Advocate, for the Petitioner; C.S.C., M.N. Singh, for the Respondent; Civil Misc. Writ Petition No. 34901 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C., Rajesh Yadav, for the Respondent; Civil Misc. Writ Petition No. 34905 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 34908 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent; Civil Misc. Writ Petition No. 34912 of 2016; Sanjay Singh, Advocate, for the Petitioner; C.S.C. and Mahesh Narain Singh, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

Surya Prakash Kesarwani, J.—List revised. Case called out. Sri Rajeev Kumar, learned counsel for the petitioner in Writ-C No.6132 of 2017 has appeared, who also holds brief of Sri Rajendra Pal Singh, learned counsel for the petitioner in Writ-C No.390 of 2016 and 406 of 2016. In Writ-C No.34083 of 2016, Sri Amit Malik, learned counsel has appeared on behalf of the petitioners. None has appeared on behalf of the petitioners in other connected writ petitions. Sri Vishal Tandon, learned standing counsel has appeared on behalf of State respondents.

2. This bunch of writ petitions, have been filed aggrieved with the insistence of wholesale dealers requiring the retailers/fair price agents to submit distribution certificate of the village Pradhan.

Learned counsels for the petitioners submit that wholesale dealer cannot impose

any condition upon the retailers other than those provided under the relevant Government Order. He refers to para-4 of the Government Order No.1213/29-7-2008-M143/06 dated 02.06.2008 with respect to distribution of kerosene oil under Public Distribution System, which requires the retail dealers to submit certificate members of the Administrative Vigilance Committee of the concerned village Panchayat and Village Development Officer. Submission is that the requirement under Government Order is the endorsement of the members of Prashasnik Satarkta Samiti as well as Gram Vikas Adhikari and, therefore, neither the District Supply Officer nor a wholesale dealer may require certificate or endorsement in any other manner.

Learned standing counsel submits that there cannot be any disagreement that endorsement has to be made in the manner as prescribed by para-4 of the aforesaid Government Order dated 02.06.2008.

3. I have carefully considered the submissions of learned counsel for the parties.

4. The relevant Government order dealing with the issue involved in these writ petitions is the Government Order No. 1213/29-7-2008-M143/06 dated 02.06.2008. It provides for various stages of checking of kerosene oil in the matter of distribution. Clause-4 of the said Government Order is relevant which deals with the third stage, i.e. distribution to ration card holders, which is reproduced below:-

"4- vc r`rh; LVst rc izkjaHk gksxk tc igyh ckj M~eksa esa rsy Hkj dj IR;kiu dj kus ds ikl miyC/k gksxkA blds rRdky ckn mruh la;k esa dkMZ/kkj dksa dks rsy izkIR djus dh lwpuh nh tk;sxh ftruk fnu Hkj esa feV~Vh rsy forfjr gks lds rFkk miyC/k gksA forj.k djrs le; r`rh; LVst dh psfdax gksxhA r`rh;k LVst esa forj.k dh psfdax rFkk forj.k ls lEcFu/kr izek.ki= fd jk"ku dkMZ /kkj dksa dks frfFkokj fdruk fdruk yhVj feV~Vh dk rsy mfpr nj fodzsrk }kjk forfjr fd;k x;k gS] lacaf/kr xzke iapk;r dh iz"kk lfud lrdZrk lfefr ds lnL;ksa ,oa xzke fodkl vf/kdkjh ds gLrk{kjkUrxZr tkjh gksxkA xzke iz/kku dk ;g nkf;Ro gksxk fd muds xzke esa fLFkr jk"ku dkMZ /kkj dksa dk le; ls fu/kkZfjr ek=k esa fdjkslhu vkW;y feyrk jgsA

"kgjh {ks= esa r`rh; LVst esa forj.k dh psfdax rFkk forj.k ls lacaf/kr izek.k i= fd dpy fdrus jk"ku dkMZ /kkj dksa dks frfFkoj fdruk fdruk yhVj feV~Vh dks rsy mfpr nj fodzsrk }kjk forfjr fd;k x;k gS] lacaf/kr {ks=h; iwfrZ fujh{k d ,oa ckV eki fujh{k ds gLrk{kjkUrxZr tkjh gksxkA iwfrZ fujh{k dk ;g nkf;Ro gksxk fd mlds {ks=kUrxZr fLFkr jk"ku dkMZ /kkj dksa dks le; ls fu/kkZfjr ek=k esa fdjksflu vkW;y feyrk jgsA"

5. The aforesaid Government Order is the policy decision of the State Government, which holds the field. No material has been brought on record to indicate any acceptable ground to interfere with the said policy decision. Under the circumstances, the petitioners are bound to get endorsement in the manner as provided under para-4 of the aforesaid Government Order. Unless the aforesaid Government Order dated 02.06.2008 is amended or superseded by another Government Order or Statute providing otherwise, even the officers of

the Supply Department or wholesale dealers cannot require retailers to submit certificate or endorsement in a manner otherwise than that provided in para-4 of the Government Order.

6. In view of the aforesaid, all these writ petitions are disposed of providing that the certificate under para-4 of the Government Order dated 02.06.2008, shall be issued by the members of "Satarakta Prashasnik Samiti" of the village Panchayat concerned and the Gram Vikas Adhikari. In matters relating to urban areas, the procedure as provided in the later part of the aforesaid para-4 of the Government Order shall be followed.