
(2010) 01 AHC CK 0178
In the Allahabad High Court
Case No : Writ C.No.71462 of 2009

Ashkar

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 04-01-2010

Acts Referred:

Citation : (2010) 01 AHC CK 0178

Hon'ble Judges : V.K.Shukla, J

Final Decision : Partly Allowed

Judgement

V.K. Shukla, J.—In the present case, order impugned is dated 30.9.2009 passed by the Commissioner (Food), Moradabad Region, Moradabad in Appeal No. 18/07/08.

2. Brief background of the case is that petitioner was accorded fair price shop licence. Proceedings for cancellation had been undertaken against Maharuf. Licensing authority on 7.6.2007 proceeded to pass order directing cancellation of fair price shop licence. Against the same, appeal had been preferred and said appeal had been allowed on 30.9.2009 and consequential order has been passed. At this juncture present writ petition has been filed.

Supplementary affidavit has also been filed.

3. Sri Awadh Sharma, Advocate, learned counsel for the petitioner contended with vehemence that once order of cancellation had been set aside on the ground of violation of natural justice, then in such contingency on such plea being accepted the matter ought to have been remitted back instead of allowing the appeal straight way and as such writ petition deserves to be allowed.

4. Countering the said submission, learned Standing Counsel and Sri Nasirujjma, Advocate on the other hand contended that rightful view has been taken in the matter, as such no interference be made.

5. After respective arguments have been advanced, in the present case order

dated 30.9.2009 has been perused. Order in question reflects that appeal in question has been allowed by the Commissioner (Food), Moradabad Region, Moradabad on the ground that documentary evidence which has been filed on behalf of the appellant, same has not been adverted to in its correct prospective and documentary evidence had been filed by the petitioner, no plausible reasons have been given for not accepting the said evidence and as such appeal in question is worth accepting. Once ground taken was that documentary evidence filed, had not been adverted to in its correct perspective, then fitness of things demanded that after quashing the order, matter ought to have remitted back to the authority concerned for reconsideration of the material which have been furnished instead of proceeding to allow the appeal in toto and closing the chapter.

6. In this background order dated 30.9.2009 is approved of with a modification that fresh opportunity of hearing be provided to the Respondent nos. 4 and then reasoned order be passed on the basis of the material available and furnished by Respondent No. 4.

7. With these observations/direction, writ petition is partly allowed.