
(2010) 03 SHI CK 0159

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 2287 of 2007

Chaman Singh

APPELLANT

Vs

State of H.P. and Another

RESPONDENT

Date of Decision : 23-03-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 03 SHI CK 0159

Hon'ble Judges : Dev Darshan Sood, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dev Darshan Sud, J.—This petition has been filed by the Petitioner against the order passed by the Appellate Authority i.e. Additional Chief Secretary (Food, Civil Supplies & Consumer Affairs to the Government of Himachal Pradesh) in an appeal preferred by Respondent Shri R.C. Pal Singh (depot holder), whereby his authorization for running a Fair Price Shop in village Chandi, District Chamba, has been cancelled for purported violation of the provisions of the Himachal Pradesh Specified Article (Regulation and Distribution) Order, 2003.

2. A complaint Annexure P-1 was lodged with the Pradhan, Gram Panchayat, Chandi by some villagers that they were not getting ample food grains in accordance with their entitlement, whereupon an inquiry was conducted by the Inspector, Food, Civil Supplies & Consumer Affairs, Chamba. On 21.8.2006, his authorization to run the Depot was cancelled. Respondent R.C. Pal approached the District Food and Supply Officer to present his case, where he specifically urged that the order of cancellation is not a speaking order as the Local Vigilance Committee has given a favourable report with respect to the working of the Fair Price Shop run by him. The allegation by the District Food and Supply Officer was that "grave irregularities were found in the functioning of the Fair Price Shop and the order of cancellation is a legal one and is based on a proper appreciation of the material before it." The Appellate Authority-cum-Director then concludes that

on scrutiny of the inquiry report it is clear that "Respondent-Depot Holder has committed many irregularities in the maintenance of his record". The plea of the Depot Holder that he was admitted in PGI for medical treatment and if there were any irregularities they were not deliberate was not accepted.

3. The Appellate Authority i.e. the Additional Chief Secretary considered the matter afresh and passed an order. The order reads:

After going through the whole case, it is clear that the charge of the issuing of less quantities to certain consumers/card holders is concerned, it was issued as per the order placed by the consumers themselves only and as such there was no violation of any rules as is evident from the report submitted by the vigilance committee consisting of Shri Prittam Chand, Pradhan, Shri Dinesh Chand, Headmaster, Smt.Kanta Devi, Pradhan of the Mahila Mandal & Sh. R.C. Rathore, Pradhan Kishan Sabha.

From the above, it is clear that in the order passed by the Director, Food Civil Supplies & Consumer Affairs, H.P., Shimla in appeal No. 5/2006 on 4.01.2007, no other serious irregularities or violation of any Clause of the control order was pointed out. The explanation given by the Appellant appears to be satisfactory. Hence, this order can not be sustained in the eyes of Law and appeal is allowed. Therefore, the order dated 4.01.2007 is set-aside and Respondent is directed to restore the authorization issued to Appellant within one month from the date of this order. The Appellant is warned to be careful in future in the maintenance of proper record. Order be communicated to all the concerned.

4. This is the order which has been challenged in this writ petition.

5. I have heard learned Counsel appearing for the parties and have gone through the record of the case.

6. The Appellate Authority having found as a fact that the report of the Vigilance Committee consisting of Shri Prittam Chand, Pradhan, Shri Dinesh Chand, Headmaster, Smt. Kanta Devi, pradhan of the Mahila Mandal and Shri R.C. Rathore, Pradhan Kishan Sabha, exonerates the Respondent-Depot Holder and that the so called purported irregularities are not substantiated by any material on the record, I am not persuaded to take a different view, more especially, when a Committee consisting of the Pradhans and the Local Headmaster had made a thorough inquiry into the entire affairs. Merely saying that there were some irregularities and rejecting the explanation offered by the Respondent without assigning any reason, was not proper way for exercising powers of cancellation. The order of the Additional Chief Secretary having been passed on sufficient material on the record. Exercising its powers Under Article 226 of the Constitution of India, this Court cannot be converted into an Appellate Authority to scrutinize the finding of fact established on the record. I do not find any merit in this writ petition which is dismissed. There shall be no order as to costs.