
(2002) 04 AHC CK 0092
In the Allahabad High Court
Case No : Writ Petition No.1061 (M/S) of 2002

Chhotaka

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 10-04-2002

Acts Referred:

Citation : (2002) 04 AHC CK 0092

Hon'ble Judges : Khem Karan, J

Final Decision : Disposed Of

Judgement

Khem Karan, J.—Notice on behalf of opp. Party Nos.1 to 4 has been accepted by the learned Counsel for the State. Sri Amit Chandra appearing on behalf of opp. Party No.5 files counter affidavit, which be taken on record.

2. Heard learned counsel for the parties on admission of this writ petition and also perused the contents of the petition and papers annexed therewith.

3. The petitioner is assailing the order dated 15.1.2002 passed by the Divisional Commissioner, in purported exercise of the powers under para 11 of the Government Order dated 3.7.1990 by which he set aside the order dated 30.7.2001, passed by the SubDivisional Officer, Gonda. By this order dated 30.7.2001, the SubDivisional Officer had cancelled the fair price licence of opposite party No.6, and has granted the same to the petitioner.

4. One of the contentions of the learned counsel for the petitioner is that in view of the subsequent Government Order dated 18.5.1999 (Annexure9 to the writ petition), the powers of appeal provided under the earlier Government Order dated 3.7.1990 were taken from the Divisional Commissioner and were conferred on the authorities mentioned in para 9 of the Government Order. He says that the order dated 30.7.2001 has been passed, after coming into force of the Government Order of 1999, therefore, the powers of appeal under para 11 of the earlier Government Order of 1990 were no more available to the Divisional Commissioner in the present case.

5. Learned counsel for the parties have agreed that this writ petition may be finally disposed of and the orders of the Divisional Commissioner dated 15.1.2002 and subsequent order dated 2.3.2002 passed by the SubDivisional Officer be quashed and matter be ordered to be sent to the appellate authority under the new Government Order dated 18.5.1999. According to para 9 of the Government Order of 1999, appeal against the cancellation done by the SubDivisional Officer or District Supply Officer will lie to the District Magistrate or the person nominated by him.

6. The Court is also of the view that the matter should be finally disposed of on the lines indicated by the parties counsel.

7. So, the writ petition is finally disposed of and the impugned order dated 15.1.2002 passed by the Divisional Commissioner and order dated 2.3.2002 passed by the SubDivisional Officer are hereby quashed. The appeal presented to the Divisional Commissioner against the order of the SubDivisional Officer dated 30.7.2001 will be sent to the District Magistrate, Gonda, who will decide the same in accordance with law, within two months from the date the certified copy of this order is produced before him, without being influenced by the observations made or conclusions drawn by the Divisional Commissioner in his order.

(Ordered accordingly.)