
(2005) 10 AHC CK 0006
In the Allahabad High Court
Case No : C.M.W.P. No. 34476 of 2003

Hari Mohan Agarwal

APPELLANT

Vs

Divisional Commissioner, Agra Division and Others

RESPONDENT

Date of Decision : 18-10-2005

Acts Referred:

Citation : (2006) 1 AWC 1053

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : Rajiv Gupta and Dilip Kumar, for the Appellant; Prem Prakash Srivastava, S.C., for the Respondent

Final Decision : Allowed

Judgement

Vineet Saran, J.—The petitioner was a petty diesel dealer who had obtained a licence from the District Supply Officer, Mathura under the U.P. High Speed Diesel Oil and Light Diesel (Maintenance and Supplies) Distribution Order, 1981. His licence was valid upto 31st March, 2004. Allegedly in an inspection having been conducted by the Supply Inspector and his team on 10.6.2000, certain irregularities were found and consequently the licence of the petitioner had been suspended. Thereafter on 24.7.2000, the District Supply Officer passed an order cancelling the licence of the petitioner. The appeal of the petitioner filed before the Commissioner was also dismissed on 9.7.2003. Aggrieved by the said orders, the petitioner has filed this writ petition.

2. I have heard Sri Rajeev Gupta, learned Counsel appearing for the petitioner as well as learned standing counsel appearing for the respondents. Counter and rejoinder-"affidavits have been exchanged and with the consent of the learned Counsel for the parties this writ petition is being disposed of at the admission stage itself.

3. The contention of the learned Counsel for the petitioner is that after the order of cancellation had been passed by the District Supply Officer an enquiry was got

conducted by the Collector, Mathura. Initially the matter was enquired into by the Sub-Divisional Magistrate, who submitted his report on 12.12.2000 and thereafter the Additional District Magistrate submitted his detailed report on 7.3.2001, in which It was reported that the irregularities alleged to have been found at the time of inspection did not appear to be correct and in fact, on the contrary, there were gross irregularities committed by the inspection team. Thereafter on 8.3.2001 the Collector, Mathura, had made an endorsement that he was in agreement with the report that the "supurdaginama" was not prepared properly and that action should be taken against those officers involved in corruption. The submission of the learned Counsel for the petitioner is that in view of such specific findings given by the Additional District Magistrate in his enquiry report, the order passed by the District Supply Officer cancelling his licence was not justified as in view of the said laport, there was no question of excess stock being held by the petitioner at the time of inspection as has been claimed in the inspection report. The Commissioner, while rejecting the appeal, has not discussed the enquiry reports of the Sub-Divisional Magistrate as well as the Additional District Magistrate submitted on 12.12.2000 and 7.3.2001, as well as the endorsement of the Collector dated 8.3.2001. It has also been submitted by the petitioner that the criminal case pending against the petitioner in pursuance of the inspection report dated 10.6.2000 has also been withdrawn by the State Government.

4. In my view, in the aforesaid circumstances the matter requires reconsideration by the licensing authority. The impugned orders dated 28.7.2000 and 9.7.2003, passed by the District Supply Officer, Mathura and the Commissioner, Mathura, having been passed in ignorance of the aforesaid reports dated 12.12.2000, 7.3.2001 and 8.3.2001 are liable to be set aside and are hereby quashed. The matter is remitted back to the District Supply Officer, respondent No. 2 to reconsider the matter and pass a fresh order in accordance with law, after considering the aforesaid reports dated 12.12.2001, and 7.3.2001 and also the comment of the Collector dated 8.3.2001 and after giving opportunity of hearing to the petitioner, by a reasoned order, within two months from the date of filing of a certified copy of this order before the said respondent No. 2.

5. In case if it is found that the suspension of the licence of the petitioner was improper and that his licence ought to have been restored back, the petitioner shall then have a right to file an application for renewal of his licence. If the same is done, the licensing authority shall decide the same in accordance with law within 15 days of the filing of such an application.

6. With the aforesaid observations, this writ petition stands allowed. No order as to costs.