

**(2019) 03 UK CK 0025**

**In the Uttarakhand High Court**

**Case No : Writ Petition No. 583 Of 2019 (M Of S)**

Naresh Singh

APPELLANT

Vs

District Magistrate, Dehradun & Others

RESPONDENT

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**Date of Decision : 06-03-2019**

**Acts Referred:**

**Citation : (2019) 03 UK CK 0025**

**Hon'ble Judges : Alok Singh, J**

**Bench : Single Bench**

**Advocate : Ramji Srivastava, Yogesh Pandey, Gajendra Tripathi**

**Final Decision : Disposed Off**

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## **Judgement**

Alok Singh, J

1) By means of present petition, the petitioner seeks to issue a writ, order or direction for quashing the impugned part of order dated 04.12.2018 passed by the Commissioner, Garhwal Mandal, Pauri/respondent no.4 in Appeal No.5 of 2018-19, titled as, 'Naresh Singh vs. District Supply Officer, Haridwar'.

2) Brief facts of the case are that petitioner was granted a licence to run a fair price shop at Mehuwala, District Dehradun. When some irregularities were found against him, the District Supply Officer, Dehradun, vide its order dated 10.10.2017, had attached the card-holders of fair price shop of petitioner to some other fair price shops in adjoining village. Feeling aggrieved, petitioner had approached this Court by filing a Writ Petition No.2680 of 2017 (M/S), which was disposed of, vide order dated 31.10.2017, with the following directions:-

"(a) The inquiry committee shall conclude the inquiry and will submit its report within a period of two months from the date of production of certified copy of this order.

(b) The Competent Authority shall thereupon consider the inquiry report and pass appropriate final order in respect of the petitioner within one month

thereafter.

(c) This entire exercise shall be completed on or before 10.02.2018.

Till passing of final order by the Competent Authority or 10.02.2018, whichever is earlier, effect and operation of impugned orders dated 10.10.2017 and 12.10.2017 shall be kept in abeyance, as regards the petitioner."

3) Pursuant to above directions, the Supply Inspector passed an order dated 06.11.2017 cancelling the attachment of petitioner's fair price shop. Thereafter, the inquiry committee enquired into the matter and submitted its report. On the basis of the enquiry report, respondent no.3 suspended the fair price shop of the petitioner and attached his card holders to another shop, vide orders dated 20.08.2018 & 21.08.2018.

4) Feeling aggrieved, the petitioner preferred WPMS No.3322 of 2018, which was disposed of granting liberty to the petitioner to seek alternative remedy to file an appeal before the Commissioner. However, it was also directed that in case, the appeal is filed by the petitioner, the same shall be decided by the Commissioner within two months.

5) Thereafter, petitioner preferred an appeal and sought for stay of the effect and operation of the order dated 20.08.2018 & 21.08.2018.

6) Learned counsel for the petitioner vehemently argued that the Commissioner has failed to consider that in case of not staying the effect and operation of the aforesaid orders, the petitioner could not operate the shop and the purpose of filing appeal would be frustrated.

7) After considering the submissions of learned counsel for the parties, this Court is of the opinion that while admitting the appeal of the petitioner, the Commissioner, Garhwal Mandal has failed to record status-quo order, in as much as, while admitting the appeal, the Commissioner should have recorded the status-quo order. In other words, the Commissioner, Garhwal Mandal should not have declined to grant interim order in favour of the petitioner while admitting the appeal.

8) Without going into the merits of the case, it is directed that as an interim measure, there shall be an interim order in favour of the petitioner and he shall run his fair price shop till the appeal is decided by the Commissioner, Garhwal Mandal, Pauri. In other words, the effect and operation of the orders dated 20.08.2018 & 21.08.2018 shall be kept in abeyance till the appeal filed by the petitioner is finally decided by the Commissioner.

9) The writ petition stands disposed of accordingly. No order as to costs.