
(2011) 05 AHC CK 0049

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4104 (M/B) of 2011

Parmanand

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 03-05-2011

Acts Referred:

Citation : (2011) 5 ADJ 665

Hon'ble Judges : Vedpal, J;Pradeep Kant, J

Bench : Division Bench

Judgement

1. Notice on behalf of the Respondents has been accepted by the learned Chief Standing Counsel.

Heard the counsel for the Petitioner and Sri H.P. Srivastava for the State.

In view of the plea raised by the Petitioner, we, with the consent of the parties counsel, proceed to dispose of the writ petition finally.

2. The Petitioner's specific case is that he is the sitting licensee of the fair price shop and though his agreement/licence is not under suspension nor has been cancelled, the Sub Divisional Officer has passed the impugned order dated 21.4.2011, by means of which the card holders of his shop have been attached to some other shop and thus, the Petitioner has been restrained from functioning as fair price shop dealer.

3. The Petitioner also submits that earlier an order of cancellation was passed, which was quashed on 17.4.2008 and in pursuance thereof, the fair price shop was restored to him.

4. This Court has repeatedly observed that unless the agreement/licence of the fair price shop dealer either is under suspension or cancellation, there would be no authority with the Sub Divisional Officer or any other officer to stop his functioning by restraining him either from lifting the quota of essential commodities or distribution thereof.

5. This Court takes notice that such type of orders are very commonly passed by the Sub Divisional Officers and other authorities. Passing of such an order is not only against the settled principles of law and the orders pronounced by the Court but also leads to multiplication of legal proceedings and burdening the Court with the petitions which are not required and can be avoided.

6. In the instant case also, there is no order of cancellation or suspension of the Petitioner's agreement/licence, but even then the Sub Divisional Officer has passed the order, as aforesaid.

7. We, therefore, set aside the order dated 21.4.2011 and direct that unless the agreement/licence of the fair price shop is suspended or cancelled, the functioning of the Petitioner as dealer thereof, would not be interfered by any order passed by the Respondents. The Petitioner shall continue to discharge the functions of sitting fair price shop dealer, under usual administrative control of the competent authority.

8. Before parting, we would like to observe that copy of this order be sent to the Chief Secretary, Government of U.P., so that necessary instructions may be issued to all the District Magistrates and concerned officers that care be taken while passing orders of attachment of card holders to any other shop or stopping the supplies or lifting of quota.

9. The writ petition is disposed of accordingly.