

(2015) 01 AHC CK 0098

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 68442 of 2014

Raj Kumar

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 13-01-2015

Acts Referred:

Citation : (2015) 2 ADJ 253 : (2015) 109 ALR 441 : (2015) 2 AWC 1120 :
(2015) 127 RD 407

Hon'ble Judges : Vivek Kumar Birla, J.;Vineet Saran, J.

Bench : Division Bench

Advocate : India Bhan Singh, for the Appellant; D.D. Chauhan, Advocates for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner as well as learned Standing Counsel appearing for the State respondents and Sri D.D. Chauhan, learned counsel for the respondent No. 3 and have perused the record. The father of the petitioner was the fair price shop dealer, who died on 31.5.2012. Thereafter, the mother of the petitioner Ms. Srimati filed an application for appointment of fair price shop dealer on compassionate ground.

2. Learned counsel for the petitioner states that Clause 10 (Jha) of the Government Order dated 10.8.2002 provides for such appointment on compassionate ground. The said Clause 10 (Jha) of the aforesaid Government Order provides that if the overall goodwill and conduct of the deceased fair price shop dealer was good, then the application for appointment of a dependent of such deceased dealer could be considered. The dependent has been described as widow, son and unmarried daughter. In pursuance thereof, the widow of the deceased dealer applied for appointment of fair price shop dealer on compassionate ground, which was rejected by order dated 10.3.2014 on the ground that she was illiterate and would not be able to keep the accounts.

It was only after such rejection that the petitioner-Raj Kumar, who is son of the deceased dealer, applied for appointment of fair price shop dealer on compassionate ground vide application dated 4.10.2014. The said application has been filed nearly two and half years of the death of the father of the petitioner and after nearly seven months of the rejection of the application filed by the mother of the petitioner.

3. The petitioner is now aggrieved by the order dated 21.11.2014 passed by the Sub Divisional Magistrate where by the respondent No. 4-Smt. Sunita has been appointed as fair price shop dealer for the village in question. It is contended by the learned counsel for the petitioner that when the application of the petitioner dated 4.10.2014 was pending for appointment as fair price shop dealer on compassionate ground for the village in question, the order appointing the respondent No. 4-Smt. Sunita could not have been passed.

4. The provision for appointment of fair price shop dealer on compassionate ground does not give any right to the applicant (petitioner in this case) for grant of such appointment. The only right, which is given, is for consideration of the application on compassionate ground. The petitioner waited two and half years after the death of his father before he filed such application. The other dependent of the deceased dealer i.e. the mother of the petitioner had already filed an application for appointment on compassionate ground, which was rejected as back as 10.3.2014 on valid grounds and the same was never challenged. The paragraph 10 (Jha) of the said Government Order does not contemplate of repeated applications being filed by the first dependent i.e. wife and second dependent i.e. son after the first application has been rejected. The purpose for grant of fair price shop dealership on compassionate ground is that the family of the deceased dealer may not be deprived of the source of their livelihood. Here is a case where the petitioner waited two and half years before filing application and the explanation given is that the petitioner did not know of the rejection of the application of his mother vide order dated 10.3.2014. Such explanation is not worthy of acceptance. Even otherwise, we are of the firm view that the repeated applications by separate dependents of the deceased dealer is not contemplated by the said Government Order.

5. As such, we do not find any good ground to interfere with the order dated 21.11.2014 by which the respondent No. 4-Smt. Sunita has been appointed as fair price shop dealer for the village in question. This writ petition is accordingly dismissed. No order as to costs.