

(2009) 02 SC CK 0045

In the Supreme Court Of India

Case No : Civil Appeal No. 828 of 2009 (Arising out of S.L.P. (C) No. 23836 of 2007)

Rajendra Prasad

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 09-02-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 17 SCC 790

Hon'ble Judges : G. S. Singhvi, J;B. N. Agrawal, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Leave granted.

2. Heard learned Counsel for the parties.

3. By an order dated 16th May, 2007, Deputy District Officer, Gyanpur allotted Fair Price Shop at village Kanakpur, District Bhadohi to the appellant. After 15 days, District Officer passed an order dated 30th May, 2007 for cancellation of the allotment made in favour of the appellant and initiation of the selection procedure in favour of respondent No. 4, Vinod Kumar. Accordingly, Deputy District Officer, Gyanpur passed order dated 5th June, 2007. The appellant challenged that order by filing writ petition under Article 226 of the Constitution of India. He averred that before cancelling the allotment made in his favour, the concerned officers did not give him opportunity of hearing. However, without examining the merits of the case, the High Court summarily dismissed the writ petition. Hence, this appeal by special leave.

4. In the SLP also it has been averred by the appellant that the order of cancellation was passed without affording him opportunity of hearing. This has not been denied in the counter affidavit filed on behalf of the respondent- State. Therefore, the order passed by Deputy District Officer, Gyanpur as also the order

passed by the High Court dismissing the writ petition are liable to be set aside.

5. Accordingly, the appeal is allowed, order dated 5th June, 2007, passed by Respondent No. 3 cancelling the allotment of Fair Price Shop of the appellant and the order passed by the High Court in the writ petition are hereby quashed.

6. Needless to say that this order shall not preclude the competent authority from passing appropriate order in accordance with law.