
(2009) 11 AHC CK 0328

In the Allahabad High Court

Case No : C.M.W.P. No's. 57312 and 60501 of 2009

Ram Moorat Tiwari

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 25-11-2009

Acts Referred:

Citation : (2011) 2 AWC 1743

Hon'ble Judges : R.K. Agrawal, J; Jayashree Tiwari, J

Bench : Division Bench

Judgement

R.K. Agrawal and Jayashree Tiwari, JJ.—The fair price shop licence of one Sri Ram Moorat Tiwari was earlier cancelled vide order dated 14.6.2007. The appeal preferred by Sri Ram Moorat Tiwari was dismissed vide order dated 20.7.2007. The aforesaid two orders were subject-matter of challenge before this Court in Writ Petition No. 34626 of 2007 filed by Sri Ram Moorat Tiwari. This Court vide judgment and order dated 1.7.2009 had been pleased to set aside both the orders dated 14.6.2007 and 20.7.2007 and directed the District Supply Officer, Ghazipur to pass fresh order in accordance with law after giving an opportunity of hearing while maintaining that the licence of Sri Ram Moorat Tiwari shall remain suspended till a decision is taken by the District Supply Officer. Pursuant to the aforesaid direction, the D.S.O. had restored the licence of Sri Ram Moorat Tiwari by forfeiting the security of Rs. 250 deposited by him. It appears that in the meantime, Petitioner was allotted a fair price shop licence on the vacancy caused on account of cancellation of fair price shop licence of Sri Ram Moorat Tiwari. The D.S.O. by impugned order had bifurcated the ration cards and unit attached with Sri Ram Moorat Tiwari equally with the Petitioner.

2. Learned Counsel for the Petitioner submitted that the licence of Sri Ram Moorat Tiwari could not have been restored as he had committed irregularities earlier and vide order dated 16.9.2009 licence was restored on forfeiture the security of Rs. 250 deposited by him. It may be mentioned here that Sri Ram Moorat Tiwari has not been impleaded as a party in the aforesaid writ petition.

However, an impalement application has been filed.

3. Sri Ram Moorat Tiwari has also challenged the aforesaid order dated 16.9.2009 passed by the D.S.O. whereby the ration cards and units attached with the shop has been bifurcated equally between him and Jai Ram Kannaujiya the Petitioner in the Writ Petition No. 57312 of 2009.

4. We have heard Sri C.M. Rai, learned Counsel for the Petitioner in the Writ Petition No. 57312 of 2009 and Sri Krishna Ji Khare learned Counsel for the Petitioner in the Writ Petition No. 60501 of 2009.

5. It is not in dispute that the fair price shop licence was allotted to Sri Jai Ram Kannaujiya on the vacancy caused by cancellation of the fair price shop licence of Sri Ram Moorat Tiwari. The licence of Sri Ram Moorat Tiwari having been restored on forfeiture the security, it was not open to D.S.O. to bifurcate the ration cards and units attached with Sri Ram Moorat Tiwari. So far as contention of Sri C.M. Rai that the licence ought not to have been restored is concerned, we find that on the basis of the material evidence on record, the D.S.O. in his wisdom though it fit and proper to restore the licence by forfeiting the security amount which cannot be said to be arbitrary or unreasonable. Moreover, such order cannot be challenged at the instance of Sri Jai Ram Kannaujiya as he has only stepped in the shoes of Sri Ram Moorat Tiwari.

6. In view of the foregoing discussions, the impugned order dated 16.9.2009 insofar as it bifurcates the ration card units equally between Sri Ram Moorat Tiwari and Sri Jai Ram Kannaujiya cannot be sustained and is hereby set aside. Sri Ram Moorat Tiwari is entitled to distribute the food grains and other essential commodities to the ration card holders which were originally attached with him.

7. It may be mentioned here that the units are less than 4,000 and therefore, in view of the Government order issued in this behalf only one fair price shop licensee can function in the area.

Both the writ petitions stand disposed of.