
(2002) 01 AHC CK 0163
In the Allahabad High Court
Case No : Writ Petition No. 165 of 2002 (MB)

Ram Pal Dubey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-01-2002

Acts Referred:

Citation : (2002) 2 AWC 1056

Hon'ble Judges : M.A. Khan, J; Ashish N. Trivedi, J

Bench : Division Bench

Advocate : Pramod Kumar Singh, for the Appellant; C.S.C., for the Respondent

Final Decision : Allowed

Judgement

Ashish N. Trivedi and M.A. Khan, JJ.—Heard Sri Pramod Kumar Singh, learned counsel for the petitioner and Sri Rakesh Bajpai, learned standing counsel for the State.

2. By the impugned order dated 24.7.2001 the Deputy Collector, Akbarpur, district Ambedkar Nagar, has directed the attachment of card holders of fair price shop, of the petitioner to another fair price shop on the ground that an enquiry is being made with regard to certain allegations, by the Supply Inspector and Naib Tahsildar and pending enquiry the impugned arrangement has been made.

3. Learned counsel for the petitioner has placed reliance on a Division Bench decision of this Court in Naumi Ram Vs. Dy. Collector and Others, , in which It has been held that it is obligatory on the authorities to follow the procedure prescribed by law and there is no power conferred on the authority to stop the supply on the basis of mere allegation or complaint and to take such action without affording an opportunity to the dealer.

4. Sri Rakesh Bajpai, learned standing counsel has placed reliance before us on the Government order dated 4.1.2001. issued by the Principal Secretary, Government of U. P. Food and Civil Supplies, Civil Secretariat, Lucknow.

addressed to all the District Magistrates and District Supply Officers of the State inter alia, providing in paragraph 11 of the Government order that in the event of detection of irregularity in the supply of food grains, the card holders of the fair price shop may be attached to another neighbouring fair price shop. Sri Rakesh Bajpai, therefore, contended that the authorities do have powers to make stop gap arrangements pending enquiry with the other neighbouring fair price shop.

5. We concede the power to the State Government with rider that before ordering or making an attachment of the card holders of a fair price shop to another neighbouring fair price shop, the dealer in question should be given an A.W.C. 67 ,----opportunity to show cause by the competent authority unless for the reasons to be recorded in writing that immediate action to do so is necessary.

6. However, in the present case admittedly no opportunity of hearing was given to the petitioner nor is there any reason recorded in the Impugned order that the allegations and irregularities are such that immediate action was necessary because if immediate action was necessary and the allegations were grave in nature, nothing prevented the licensing authority to suspend the dealership of the petitioner.

7. Having not done so, the attachment of the card holders during subsistence of the licence, the action of the respondents is unwarranted in law in the facts and circumstances of the case.

8. Accordingly the impugned order dated 24.7.2002, contained in Annexure-1 to the writ petition is quashed with the liberty to the respondents to pass fresh orders in accordance with law.

9. The writ petition is allowed to the extent indicated above.