

**(2017) 09 AHC CK 0013**  
**In the Allahabad High Court**  
**Case No : 42634 of 2017**

Ramdhari Yadav And 30 Others

APPELLANT

Vs

State Of U.P. And 4 Others

RESPONDENT

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**Date of Decision :** 19-09-2017

**Acts Referred:**

**Citation :** (2017) 09 AHC CK 0013

**Hon'ble Judges :** Sunita Agarwal

**Bench :** Single Bench

**Advocate :** Shiv Shankar Pd Gupta

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## Judgement

1. Heard Shri S.S.P. Gupta, learned counsel for the petitioners and Shri Vishal Tandon holding brief for the State of U.P.

2. The petitioners herein are aggrieved by the orders dated 3.7.2017 and 13.7.2017 passed by the respondent No.2 and respondent No.4; respectively, wherein direction has been given to ensure that the supply of food grains be given to the cardholders, after recording satisfaction that the distribution certificates produced by them are duly certified by the Gram Pradhan. In absence thereto, the stock of food grains shall not be released. Thirty one petitioners who are working as fair price shop dealers joined in the present petition to challenge the decision of the Competent Authority to get the distribution certificates signed by the Gram Pradhan.

3. Shri S.S.P. Gupta, learned counsel for the petitioners vehemently argues that there is no provision in the relevant Government Orders for verification of distribution under the signature of Gram Pradhan on the distribution certificate. With reference to the Government Order dated 6.10.2015 (filed with the writ petition) and the Government Order dated 2.6.2008, he submits that three-stage enquiry for lifting and distribution of food grains, sugar and kerosene oil as provided in the Government Order dated 6.10.2015, does not contemplate any enquiry by the Gram Pradhan prior to lifting of the same.

4. His contention is that the first stage of verification is when the stock of foodgrains/sugar is transported from the Godown of Food Corporation of India to the Block Level Godowns. Second stage is at the stage of transit of the foodgrains/sugar, lifted by the dealer from Block Level Godown to the fair price shop. The verification at that stage has to be done by the Supply Inspector, Supply Officer and Godown Incharge. At the third stage, when the stock is reached the shop of the dealer, verification is to be made by the Gram Panchayat Adhikari and, in case, he is not available, by the Gram Vikas Adhikari and Lekhpal regarding the storage of the stock in the shop. Thus, according to him, at none of the three stages, there is requirement of verification by the sitting Gram Pradhan. The directions issued by the District Magistrate, in this regard, therefore, cannot be sustained.

5. On the other hand, learned Standing Counsel placing reliance upon the Circular dated 25.1.2006, with reference to paragraph-3(C) of the same, demonstrated that a Village Level Administrative/Vigilance Committee has been constituted in conformity with the "paragraphs 9 and 10" of the U.P. Essential Commodities (Regulation of Sale & Distribution Control) Order, 2016 (hereinafter referred to as "the Order, 2016"), which is required to verify the distribution certificates issued to the dealers, after verification of the distribution made by them for a particular month. The distribution certificates are to be signed by the members of the Village Level Committee and counter signed by the Lekhpal. The Village Level Committee known as Village Vigilance Committee has been constituted under Rule 9(2)(d) of the U.P. Food Security Rules, 2015 to monitor the distribution and handling of food grains under Para-9 of the Order, 2016.

6. The relevant Paragraph 3(C) of the Government Order dated 25.1.2006 is as under"- "VERNACULAR MATTER OMITTED"

7. In the light of the said submission and the provisions pertaining to sale and distribution of essential commodities, it is noteworthy that the Order, 2016 has been framed with the object to maintain the supplies of foodgrains and other essential commodities and for securing their equal distribution and availability at fair prices under the targeted public distribution system. The fair price shop as defined in para-2 (n) of the Order, 2016 is a shop set up as directed by the State Government under the said Order for distribution of food grains, sugar, kerosene oil etc. under various orders of the Central and the State Government. The fair price shop owner as defined in Para-2(o) means a person who has been authorized to run a fair price shop under the provisions of this Order. "Scheduled commodity" means food grains and commodities specified in the Schedule appended to the Order, 2016 and includes all such commodities which the State Government directs to be sold through a fair price shop.

8. Para 2(z)(i) defines Vigilance Committee means a Committee constituted under Rule 9 of the U.P. Food Security Rules, 2015 to regularly supervise the functioning of Targeted Public Distribution System in the State. As per Clause (ii) thereof, meeting of the said Committee has to be conducted in the time frame

and manner as directed by the State Government under the Order, 2016. Para-7 deals with the appointment and regulation of the fair price shop. Sub-para (6) of Para 7 provides that the State Government shall allow the sale of commodities other than the food grains and other scheduled commodities distributed under the Targeted Public Distribution System at the fair price shop to improve the viability of the fair price shop operations.

9. Para-8(1) says that the fair price shop owner has to distribute food grains to ration cardholders as per his entitlement under the Targeted Public Distribution System. The duties and responsibilities of the fair price shop owner is to be mentioned in the license/agreement issued to him which includes display of information regarding the time of opening and closing of the fair price shop; stock of the food grains received during the month; opening and closing stock of the food grains; to maintain the records of ration cardholders i.e. stock register, sale register in the form prescribed by the State Government; production of books and records relating to allotment and distribution of food grains to the Inspecting Agency and furnishing of such information as may be called by the designated Authority. Para-8(7) provides that, in case, of violation of any condition of license including any irregularity committed by the fair price shop owner, the Competent Authority shall take prompt action which may include the suspension or cancellation of license.

10. Monitoring of distribution of food grains is provided in Para- 9, which says that the Food Commissioner has to ensure regular inspections of the fair price shops and further that the stock of food grains as issued from the Corporation godown are not replaced or tampered with during the storage, transit or any other stage till delivery to the ration cardholder. Sub-Para (4) of Para-9 says that the State Government shall set up Vigilance Committee at the State, District, Block, fair price shop levels as per the provisions of the Food Security Act to perform the functions as specified in the said Act.

11. As specified in Rule 9 of the U.P. Food Security Rules, 2015, such Vigilance Committee has to meet at least once in every quarter of the calender year. The report of the Vigilance Committee is to be sent to the State Government and then to the Central Government. The constitution of the Vigilance Committee has been provided under Rule 9(2)(d) of U.P. Food Security Rules, 2015, according to which, Gram Pradhan is the Chairman of the said Committee.

12. The distribution certificate are issued to the fair price shop dealer to certify that the distribution made by him was fair and timely and was made in the presence of the Observer and as such is required to be signed by the Vigilance Committee, which has been assigned the task of ensuring fair distribution under the Targeted Public Distribution System.

13. The Government Order dated 25.1.2006 is in operation which categorically provides that the quota for the next month will be allowed to be lifted to a fair price shop dealer by the Competent Authority only after he submits a distribution

certificate duly signed by the Vigilance Committee. This provision has been made in order to check the fair price shop dealer from committing any irregularity in distribution and misappropriation/black marketing of food grains by keeping the stock of previous month intact and lifting the stock of next month.

14. In the instant case, the petitioners with reference to a document appended as "Annexure-1" to the present petition seeks to submit that their certificates having been signed by the Lekhpal, they cannot be stopped from lifting the stock of food grains either by the District Magistrate or the District Food Supply Officer.

15. Having gone through the abovenoted provisions and the Constitution of Vigilance Committee, this Court is of the considered view that the alleged distribution certificates obtained by the petitioners cannot be said to be proper certificates so as to entitle them to lift quota for the next month. The prayer of the petitioners in the present petition, therefore, cannot be accepted.

16. Considering the provisions of Government Order dated 25.1.2006, it is provided that the State Authorities are under obligation to ensure that the distribution certificates are issued strictly in compliance of the Rule 9 (2) (d) read with the paragraph 3(C) of the Government Order dated 25.1.2006 meaning thereby that such certificate shall be duly signed by the members of the Vigilance Committee of the Village Panchayat concerned and Counter signed by the Lekhpals or the Gram Panchayat Vikas Adhikari, as the case may be. Strict compliance of the said provisions shall be ensured by the Competent Authority and in all such cases where supply is made in absence of a properly signed distribution certificate, necessary action against the erring officials and the dealer, shall be initiated. The Registrar General, High Court, Allahabad is directed to send a copy of this order to the Secretary, Food and Civil Supplies, Government of U.P., Lucknow for issuing necessary direction/circulation to all the District Magistrates in the State of U.P. and to report compliance thereof.

17. With the above observations and directions, the present petition is dismissed.