

(2010) 01 AHC CK 0184

In the Allahabad High Court

Case No : Miscellaneous Single No. 199 of 2010

Rishi Pal Singh

APPELLANT

Vs

U.P.Ayukt (Khadya), Lucknow Division, Lucknow & Ors.

RESPONDENT

Date of Decision : 19-01-2010

Acts Referred:

Essential Commodities Act, 1955 — Section 3

Citation : (2010) 01 AHC CK 0184

Hon'ble Judges : Anil Kumar, J

Final Decision : Dismissed

Judgement

Anil Kumar,J.

1. Heard Sri Dinesh Kumar Misra, learned counsel for the petitioner and Sri C. B. Verma, learned Standing Counsel appearing on behalf of respondents.
2. Sri Dinesh Kumar Misra, learned counsel for the petitioner in brief has submitted that the petitioner Sri Rishi Pal Singh by virtue of an agreement was allotted a fair price shop at Village Katiya Block Mallawan, District Hardoi and was cancelled by order dated 11.8.2009.
3. Aggrieved by the said order the petitioner filed an appeal before the Deputy Commissioner, Food and Civil Supply, Lucknow, Region Lucknow (Appeal No.878 of 200910), which was admitted and the matter is pending for hearing.
4. Learned counsel for the petitioner further submits that the petitioner has moved an application for stay praying therein that the fair price shop in question shall not be allotted to any other person during the pendency of the appeal but the said application was rejected by order dated 11.1.2010 (annexure1 to the writ petition).
5. Learned counsel for the petitioner while challenging order dated 11.1.2010 has submitted that action on the part of the respondent no.1 thereby rejecting the petitioner's application for stay is an action which is arbitrary in nature

because once appeal filed by the petitioner has been entertained so then there is no justification or reason on part of respondent no.1 not to grant stay order as prayed and pass the impugned order dated 11.1.2010.

6. In support of his argument he relied on an order passed by this Court in Misc. Single No.6910 of 2009, Atma Ram Vs. Up Ayukt (Khadya), Lucknow Division Lucknow wherein this Court by order dated 14.12.2009 has held as under:

"Therefore, I am of the view that till the judgment in appeal, the fresh allotment is kept under suspension and I am not inclined to interfere in the proceeding of the case. The writ petition is dismissed, however, I hope that court below shall take decision at an early date."

7. Sri C.B. Verma, learned counsel for the respondent on the other hand submits that the order, which is under challenge in the present writ petition is perfectly valid and in accordance with principle of natural justice as during the pendency of the appeal if the shop in question is not allotted to any other person on a temporary basis then the public of the village in question, who is getting the essential goods from the shop in question shall suffer loss.

8. I have heard learned counsel for the parties and perused the record.

9. Admitted in the present case the licence of fair price shop of the petitioner was cancelled and thereafter an appeal was filed before the respondent no.1 and the same is pending for adjudication.

10. In our country majority of the people live below the poverty line and for the purposes in order to supply them the essential goods (wheat, sugar, rice etc.) the Government under the policy/scheme known as Public Distribution System has established fair price shop throughout the country in order to enable them to get the same at a cheaper rate which is foremost, important and necessary need of the day for supply to the said class of person. So in case if the supply to the said class of person are stopped from the fair price shops, which are set up under Public Distribution System then the persons in whose benefit the fair price shops are operated will suffer loss and irreparable injury which is against their interest and further the same will also be against the social justice.

11. Keeping in view the said facts, I am of the opinion that there is neither any illegality nor infirmity in the order dated 11.1.2010 passed by the respondent no.1 (Annexure No.1 to the writ petition) as such present writ petition filed by the petitioner lacks merit and is dismissed.

12. However, it is clarified that if during the intervening period if the shop in question is allotted to some other person as an interim measure that will be subject to decision of the appeal.