

(2000) 05 AHC CK 0162
In the Allahabad High Court
Case No : C.W.M.P. No. 19735 of 2000

Santosh Kumar

APPELLANT

Vs

Deputy Collector (Up-Ziladhikari) Deoria and others

RESPONDENT

Date of Decision : 11-05-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 3 AWC 1986 : (2000) AWC 1986 : (2000) 2 UPLBEC 1499

Hon'ble Judges : Lakshmi Bihari, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : H.S.N. Tripathi and P.S. Tripathi, for the Appellant; H.R. Misra and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Binod Kumar Roy and Lakshmi Bihari, JJ.—The petitioner, Santosh Kumar, has come up with a prayer to quash the order dated 10th March. 2000, passed by the Deputy Collector (Up-Ziladhikari), District Deoria. respondent No. 1. a copy of which has been appended as Annexure-5.

2. The impugned order states following facts :

Munnu Chaubey, respondent No. 4 herein, moved respondent No. 1 against the order passed by the Gram Panchayat Mahuwari (respondent No, 3) cancelling his licence of Fair Price Shop as a result of which letter No. 161, dated 18.2.2000 was issued in relation to which he filed show cause stating following facts :

(i) He has been correctly and regularly distributing essential commodities and no complaint was ever made by the Gram Panchayat in that regard.

(ii) Correct resolution has not been made by the Pradhan nor in that regard any circulation was made and since the Pradhan has animosity with him he has initiated proceedings for cancellation, which is wrong.

Thus, in view of the show cause submitted by respondent No. 4 and the

resolution not having been correctly passed by the Gram Panchayat as per the G.O., it [the resolution] is Incorrect and being cancelled with this rider that the entire security money of Rs. 250 furnished by respondent No. 4 is being confiscated in favour of the Government and with a strong warning his licence is being validated with this understanding that if any illegality is found in regard to distribution in that event cancellation proceedings will again be initiated.

3. Sri H. S. N. Tripathi, learned counsel for the petitioner made following contentions praying to admit this writ petition :

(i) In terms of the G.O. dated 10th August, 1999 issued by the Food and Supply Department No. VI of the Government, the orders passed by the Gram Panchayat have been made final and accordingly respondent No. 1 had no jurisdiction to interfere in the matter and that too without giving any opportunity to the writ-petitioner with whom the Gram Panchayat had proceeded to make allotment of the Fair Price Shop and who had also executed an agreement and deposited security money. on whose complaint and of others the Gram Panchayat had proceeded to cancel the licence of the respondent No. 4 ; and that the allotment in favour of the petitioner not having been cancelled and/or rescinded, still exists.

(ii) That no opportunity was given even to the Gram Panchayat by respondent No. 1.

(iii) There has been no violation of the alleged G.O. as stated by respondent No. 1 in his impugned order.

(iv) Since the petitioner has got no other equally efficacious remedy and principles of natural justice has been violated, hence this writ petition be entertained. returns called for and decided on merit.

4. Sri H. R. Mishra, learned standing counsel appearing on behalf of the State, on the other hand, contended as follows :

As clause 14 of the G.O. ensures proper functioning of the affairs from the Collectors of the Districts, Instead of moving this Court increasing its work load the petitioner can move the Collector of the District. In terms of clause 14 of the G.O. It can be assumed that he has General Powers of Supervision and Control, being higher In rank and thus full authority to look into the grievances of the petitioner and any other similarly situated persons or the Gram Panchayat and pass appropriate orders.

5. Having given our anxious thoughts to the submissions made at the Bar keeping in mind the mounting arrears of the cases of this Court, we find merit in the submission of Mr. H. R. Mishra and thus are of the view that the petitioner should approach the Collector of the District for ventilating his grievances by filing an application supported by any document which he considers necessary and. If made, shall be considered and disposed of by assigning reasons expeditiously though after giving opportunity to all relevant parties concerned. The Collector will also be justified in appropriate cases even to stay the operation

of the orders complained, apart from calling for the records and returns.

6. With this liberty and observations, this writ petition is dismissed.

7. The office is directed to hand over a copy of this order to Sri H. R Mishra, learned standing counsel within three days for its intimation to the Secretary, Department of Food and Supply for intimation to the Collector of the Districts for a follow up action.