
(2001) 07 AHC CK 0176
In the Allahabad High Court
Case No : C.M.W.P. No. 25929 of 2001

Santosh Kumar

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 19-07-2001

Acts Referred:

Citation : (2001) 4 AWC 2557

Hon'ble Judges : V.M. Sahai, J;Sudhir Narain, J

Bench : Division Bench

Advocate : R.J. Mishra, for the Appellant;

Final Decision : Allowed

Judgement

Sudhir Narain and V. M. Sahai, JJ.—The petitioner has sought to quash the order dated 20.6.2001 (Annexure-6 to the writ petition) cancelling his licence for fertilizers.

2. The petitioner is a retail dealer of fertilizers. He obtained a licence for selling fertilizers under the provisions of Fertiliser (Control) Order, 1985 (in short the "Order"). On 9.1.2001, the Fertilizer Inspector, Kerakat, district Jaunpur took a sample of D.A.P. fertilizer from the shop of the petitioner. On 24.3.2001 the District Agriculture Officer, respondent No. 2 issued a show cause notice to the petitioner that report of the analyst indicates that the fertilizer, which was being sold by the petitioner from his shop, is deficient in certain ingredients and is not up to the mark. The petitioner submitted reply to the show cause notice. In his reply, a copy of which has been annexed as Annexure-5 to the writ petition, it was stated that the quantity of phosphorus and other ingredients was less hardly by 1-2 per cent. He was purchasing it from the Company that is Hind Lever Chemical, Rajpura. The company supplied fertilizer to the petitioner. The mixture of various chemicals was done by the company and as a retailer, he is not responsible for it.

3. One of the objections raised was that the sample obtained by the Inspector

should have been sent for analysis within seven days by him from the date of taking sample and the report of the Analyst should be sent within 60 days from the date of receipt of sample but the sample was taken on 9.1.2001 and It was received in the Laboratory on 12.1.2001 and analysis was done on 5.3.2001. The report of the Analyst was beyond 60 days from the date of receipt of sample and the report of the Analyst cannot be taken as correct. Respondent No. 2, without recording any finding in regard to explanation of the petitioner and the objection raised by him, cancelled the licence of the petitioner without assigning any reason. Sub-clause (3) of Clause 31 of the order provides that wherever a certificate is suspended or cancelled under this clause, the registering authority or, as the case may be, the Controller shall record a brief statement of the reasons for such suspension or, as the case may be, cancellation and furnish a copy thereof to the person whose certificate has been suspended or cancelled. It reads as under :

"(3) Wherever a certificate is suspended or cancelled under this clause, the registering authority or as the case may be, the Controller shall record a brief statement of the reasons for such suspension or, as the case may be, cancellation and furnish a copy thereof to the person whose certificate has been suspended or cancelled."

4. It is mandatory to record the reasons for cancellation of the licence which means that if the licensor submits explanation to the charges given in the notice, the authorities are required to consider explanation and give reasons for not accepting the explanation given by him.

5. As noted above, we find that respondent No. 2 did not consider the explanation given by the petitioner and the reason for not accepting the explanation. The impugned order has been passed by respondent No. 2 without assigning any reason.

6. In view of the above, the writ petition is allowed. The impugned order dated 20.6.2001 (Annexure-6 to the writ petition) is hereby quashed. Respondent No. 2 is directed to pass order afresh in accordance with law within a month from the date of production of a certified copy of this order keeping in view of the observation made above.