
(2005) 08 UK CK 0023

In the Uttarakhand High Court

Case No : Writ Petition No. 834 of 2005 (M/B)

Shet Raj Saini

APPELLANT

Vs

District Magistrate and Others

RESPONDENT

Date of Decision : 18-08-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 1 UC 482

Hon'ble Judges : Cyriac Joseph, C.J;B.C.Kandpal, J

Bench : Division Bench

Advocate : S.K. Mandal, for the Appellant; B.D. Kandpal, Learned Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

B.C. Kandpal, J.—By means of this Writ Petition, the Petitioner has sought a writ in the nature of certiorari quashing the order dated 14-07-2005 (Annexure-5) passed by the District Supply Officer, Haridwar (Respondent No. 2). Another relief has also been sought by way of writ of mandamus directing and commanding the Respondents to allot Fair Price Shop to some other persons of the village in accordance with the law.

2. Brief facts giving rise to this petition are that one Chet Ram (Respondent No. 3 in this writ petition) had been issued a licence for running the Fair Price Shop in order to distribute the essential commodities to the villagers of village Ibrahimpur Mosai, Bhagwanpur. Some villagers of the aforesaid village made a complaint to S.D.M., Roorkee against the licensee, Chet Ram on 12-01-2005, stating therein that the licensee is violating the conditions of the licence as he is not properly distributing the essential commodities to the villagers. It was also alleged in the complaint that the licensee, Chet Ram does not open the Fair Price Shop in time which causes unnecessary harassment to the villagers. It has also been alleged in the complaint that the licensee, Chet Ram sells the entire essential commodities in black market.

3. The Respondent No. 2 instituted an inquiry and thereafter found that the licensee, Chet Ram was not distributing the essential commodities properly to the villagers. The Respondent No. 2 also came to the conclusion that the distribution of the essential commodities was being made by the licensee, Chet Ram in utter violation of the conditions mentioned in the licence. The Respondent No. 2, therefore submitted a report to the District Magistrate on 05-02-2005 recommending that chargesheet be issued against the licensee, Chet Ram. By an order dated 08-02-2005 the licence of Chet Ram was suspended by Respondent No. 2. Thereafter a show-cause notice dated 21-06-2005 was issued to the third Respondent by the second Respondent. The third Respondent submitted his explanation on 04-07-2005. The second Respondent did not find the explanation fully satisfactory. Hence by Annexure-5 order dated 14-07-2005, the second Respondent imposed a fine of Rs. 750/- on the third Respondent. At the same time the licence has been restored to the third Respondent.

4. In the meanwhile, on 19-04-2005 the villagers of the village Ibrahimpur Mosai, Bhagwanpur had submitted an application to the Respondent No. 1 stating therein that neither fair price shop pertaining to Chet Ram had been cancelled nor the chargesheet had been issued to him. Again on 30-06-2005, the Chairman District Panchayat, Haridwar had submitted an application before the District Magistrate, Haridwar requesting therein that one Ram Karan of the village Ibrahimpur Mosai, Bhagwanpur be permitted to lift the quota of the essential commodities pertaining to the village for proper distribution and thereafter some new licensees be appointed for proper distribution of the foodgrains.

5. Feeling aggrieved by the impugned order dated 14-07-2005 passed by the Respondent No. 2, the Petitioner who claims to be a resident of village Ibrahimpur Mosai has preferred this writ petition before this Court.

6. Heard learned Counsel for the Petitioner and perused the record.

7. Learned Counsel for the Petitioner has argued that the impugned order passed by the Respondent No. 2 is arbitrary and against the principles of natural justice. He has submitted that once the Respondent No. 2 was of the view that the licensee, Chet Ram had committed illegalities or irregularities in the distribution of essential commodities, there was no reason to restore the licence of the Fair Price Shop to the third Respondent in an arbitrary manner. We do not find any substance in this argument. The impugned order itself shows that on 21-06-2005, a show-cause notice was issued to Chet Ram, licensee of the Fair Price Shop and an explanation was submitted by Chet Ram (Respondent No. 3) on 04-07-2005. The explanation submitted by Respondent No. 3, Chet Ram was not found fully satisfactory and hence Respondent No. 1 imposed a fine of Rs. 750/- on the licensee, Chet Ram (Respondent No. 3). However, the licence was restored to the Respondent No. 3. The power to grant licence as well as to cancel the same lies with Respondent No. 2. Respondent No. 2 exercised his power after giving an opportunity of being heard to the Respondent No. 3. Nobody else was entitled to be heard in the matter. After considering the explanation of the third

Respondent, the second Respondent came to the conclusion that only a fine of Rs. 750/- need be imposed on the licensee and that the licence need not be cancelled. Accordingly Annexure-5 order was passed by the second Respondent. The Petitioner has no locus standi to contend that the punishment imposed on Respondent No. 3 is inadequate or that the licence itself should have been cancelled. Unless the impugned order is clearly illegal or arbitrary or perverse or malafide, this Court cannot interfere with the order and direct the second Respondent to cancel the licence. Such interference will be illegal and unauthorized. The Petitioner could not show that the impugned order is illegal or arbitrary or perverse or malafide. Hence no interference is called for. Also, it cannot be said that the impugned order is a result of any arbitrariness on the part of the Respondents or that it was issued in violation of the principles of natural justice. The power to regulate the supply of essential commodities and to pass suitable orders relating to it lies with the State Government and the other statutory authorities. We do not think it proper and justified to interfere with the said power and to act as an appellate authority. The Respondent No. 3 has been punished for the wrong done by him. Apart from imposing the fine of Rs. 750/- the licence of the Respondent No. 3 stood suspended for about 5 months. The adequacy of the said punishment cannot be normally considered by the High Court exercising the powers under Article 226 of the Constitution of India.

8. The Petitioner has also claimed another relief by way of a writ of mandamus directing and commanding the Respondents to allot Fair Price Shop to some other person of the village in accordance with the law. The said relief cannot be granted in the absence of a vacancy of the licensee. The licence in favour of the third Respondent has not been cancelled and it is still in force. Hence the above prayer is liable to be rejected.

9. We do not find sufficient ground to interfere with the impugned order passed by the Respondent No. 2. The writ petition is accordingly dismissed in limine.