
(2015) 01 UK CK 0059

In the Uttarakhand High Court

Case No : Writ Petition No. 2821 of 2014 (M/S)

Vibha Bisht

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 12-01-2015

Acts Referred:

Citation : (2015) 3 UC 1852

Hon'ble Judges : Alok Singh, J.

Bench : Single Bench

Advocate : J.P. Joshi, Senior Advocate assisted by Dinesh Gahatori, Advocate, for the Appellant; Rakesh Thapliyal, Assistant Solicitor General, for the Respondent

Final Decision : Disposed Off

Judgement

Alok Singh, J.—Mr. Rakesh Thapliyal, learned Assistant Solicitor General (Union of India), appearing for the respondents, has handed over counter affidavit in the court which is taken on record. Present petition is filed assailing the notice dated 21.08.2014, annexure No. 2 to the writ petition, notice dated 18.10.2014, annexure No. 5 to the writ petition and notice dated 16.12.2014, annexure No. 8 to the writ petition, whereby licence of the petitioner to run the Chemist Shop from the premises within the compound of All India Institute of Medical Science, Rishikesh was terminated. Petitioner is also seeking writ of mandamus commanding the respondent Nos. 2 to 5 not to interfere in the peaceful occupation of running business of Chemist shop in the premises allotted to the petitioner.

2. Brief facts of the present case, inter alia, are that petitioner was inducted as licensee in the disputed premises to run the Chemist Shop; agreement licence deed was executed between the parties, copy thereof is available on record as annexure No. 1 to the writ petition; as per the licence deed/agreement, petitioner has to sell only those medicines and surgical items which are prescribed by the doctors of the A.I.I.M.S. and petitioner is not authorised to

give substituted sub-standard medicines and surgical items.

3. Respondents have stated that since petitioner was indulging in selling the substandard and substituted medicine and surgical items instead of medicine and surgical items prescribed by the Doctors, therefore, impugned notices were issued to the petitioner terminating his licence asking the petitioner to close down the Chemist Shop and to hand over physical vacant possession to the A.I.I.M.S. after vacating the premises, in question.

4. It is not disputed by the learned counsel for the parties that as per the agreement/licence deed, if licensee fails to deliver the possession to the licensor, after terminating the licence, licensor shall have legal remedy to seek eviction of the licensee as per the provision of Public Premises Act.

5. Undisputedly, till day, no eviction order has been passed by the Prescribed Authority under the provisions of Public Premises Act. Mere issuance of impugned notices, terminating the licence of the petitioner and asking petitioner to hand over peaceful vacant possession to the licensor, i.e. respondents herein, does not give any right to the licensor to put seal on the shop of the petitioner. Licensor, if so advised, may initiate eviction proceedings against the petitioner in accordance with the provision of Public Premises Act.

6. Therefore, present petition stands disposed of with the direction that respondents shall be at liberty to initiate eviction proceedings against the petitioner under the provision of Public Premises Act wherein petitioner shall be at liberty to take all the possible defences including the question of validity and legality of the notices issued. Respondents shall not interfere in the possession of the petitioner without adopting due process of law, i.e. proceedings under the Public Premises Act.