



2026:AHC-LKO:20759

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 13588 of 2017

Sudhakar Tiwari

.....Petitioner(s)

Versus

Additional Commissioner Food Lucknow Division
Lko. And Anr.

.....Respondent(s)

Counsel for Petitioner(s)	: Satish Chandra Sitapuri, Amitabh Shukla
Counsel for Respondent(s)	: C.S.C., Rupendra Kumar Singh

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Shri Amitabh Shukla, learned counsel for the petitioner, Shri Divesh Mishra, learned counsel for the respondents-State and Shri Rupendra Kumar Singh, learned counsel for the respondent no.3.

2. By means of the present writ petition, the petitioner has prayed for issuance of a writ in the nature of Certiorari quashing order dated 24.9.2012 passed by the opposite party no.2 and order dated 5.11.2016 passed by opposite party no.1.

3. Factual matrix of the case is that the petitioner was having licence of fair price shop of Gram Panchayat Gogadev, Vikas Khan Sandila, District Harodi that the licence of fair price shop of the petitioner was given in the year 1995 since then no complaint whatsoever has been made either by the card holders or by any authority.

Raj Kumar Shukla, who was Pradhan in the year 2012 has manipulated a false complaint against the petitioner and on the basis of complaint licence of fair price shop of the petitioner was suspended vide order dated 23.3.2012. The reply of the suspension order dated 23.3.2012 was submitted by the petitioner on 07.04.2012.

Sub-Divisional Magistrate, Sandila, District Hardoi has cancelled the licence of the fair price shop of the petitioner and he has also forfeited the security money in favour of the State. Feeling aggrieved petitioner

preferred an appeal before opposite party no.1 which was also dismissed vide order dated 5.11.2016. Feeling aggrieved by both the orders, the present writ petition has been filed.

4. Learned counsel for the petitioner submits that no enquiry report was supplied to him and statement in this regard has been made in paragraph 7 of the writ petition.

5. Next submission of learned counsel for the petitioner is that reply of the show cause notice was not taken into consideration while passing the orders impugned, therefore the orders impugned suffer from apparent illegality and are liable to be set aside.

6. In support of his submissions, learned counsel for the petitioners has placed reliance upon the following judgments:

"(i) Smt. Santara Devi v. State of U.P. Thru Secy and others (Writ-C No.56664 of 2012, decided on 7.12.2015.

(ii) Hasib Ahmad v. Additional Commissioner Food Lucknow Mandal, Lucknow and anr. reported in Neutral Citataion No.2023:AHC-LKO:81379.

(iii) Mohammad Eherar v. Additional Commissioner Judicial, Faizabad Division and others (Case:- MISC. SINGLE No.- 897 OF 2014 decided on 6.1.2017)"

7. On the other hand, Shri Devesh Mishra, learned Standing Counsel and learned counsel for the respondent-subsequent allottee submit that once it is the statement of fact made in the affidavit by the petitioner that there is no scope to make statement of fact that the enquiry report was not supplied to him nor the statement of fact has been denied in regard to cross examination of the complainant while proceedings with the order of enquiry.

8. Having heard the rival submissions of learned counsel for the parties, I have perused the material on record as case-law cited by learned counsel for the petitioner.

9. To decide the controversy involved in the present writ petition, relevant portion of the judgments relied upon by learned counsel for the petitioner is being quoted below:

(i) Smt. Santara Devi (supra):-

"The aforesaid decision was followed by the learned Single Judgment in his judgment and order dated 28.11.2014 passed in Writ-C No.12737 of 2013 and referring to paragraph 35 of the Full Bench decision in Puran Singh's case his Lordship observed that a fulfilled enquiry is necessary before cancelling the agreement and it would require service of the charges, along with material in support of each charge, the information about the place and date of inquiry, the statements of persons on whose complaint inquiry was started or in a case of suo-motu inquiry, the statements of the persons appearing before the Enquiry Officer."

In other words it means that an independent inquiry before passing an order of cancellation of licence to run a fair price shop is mandatory and a show cause notice simplicitor is not sufficient to conform to the principles of natural justice."

(ii) Hasib Ahmad (supra):-

*7. From the facts and arguments as referred to above, what transpires is that in the show cause notice, there was no specific allegation against the petitioner which itself is contrary to the law laid down by the Supreme Court in the case of **Oryx Fisheries Pvt. Ltd. Vs. Union of India (2010) 13 SCC 427.***

"8. It is also clear from the record that the inquiry report was never supplied to the petitioner nor was any opportunity of hearing granted, thus clearly the order impugned have resulted in violation of principle of natural justice and also are in violation of Article 14 of the Constitution of India. The impugned order, which are based upon no reasoning whatsoever and on material which was never confronted to the petitioner, are unsustainable and are accordingly quashed. As this Court had granted intnerim protection to the petitioner vide order dated 29.08.2013 and it is argued that only the shop has been attached and has not been

allotted to a third person, as such a consequence of the allowing of the writ petition is that the shop in question be restored with the petitioner in accordance with law."

(iii) Mohammad Eherar (supra):-

"I am of the considered view that the enquiry officer should have proceeded on the basis of evidence on record to come to conclusion as to whether the said charge is found proved or not. It cannot be presumed that the charge is proved in case no reply has been submitted by the delinquent licence in this regard. Moreover, it is to be observed that in case statement of any card holder is relied in the enquiry the said card holder is required to be examined in the enquiry and it cannot be presumed that the statement of card holder which was taken at the time of preliminary enquiry is correct as the said statement was taken behind the back of delinquent licensee and the said card holder has not been put to cross examination and no opportunity was provided to the delinquent licensee in this regard. As such, the finding of the enquiry officer on the alleged charges as noted in the impugned order were totally perverse and are not sustainable in the eyes of law. The appellate authority has also failed to take into consideration this aspect of the matter and has proceeded to dismiss the appeal on presumptions. The appellate court order is also not sustainable in the eyes of law."

10. On perusal of the above-extracted judgments, it is apparent on the face of the record that none of the judgments is applicable to the facts and circumstances of the case. The judgments are on different footings and are not applicable to the present facts and circumstances of the case.

11. The licence of fair-price shop has been cancelled on bonafide ground that while distributing the articles he supplied less quantity of sugar and kerosene oil and charged more price than the rate fixed. It is also clear on perusal of the record that the S.D.O. while passing the impugned order has considered each and every aspects of the matter and has proceeded to pass the impugned order.

12. The Additional Commissioner has also taken into consideration the order passed by the S.D.O. and thereafter, the appeal has been decided

whereby it has been rejected. The impugned orders do not suffer from infirmity or illegality and is just and valid orders.

13. In view of the above, this writ petition fails and is dismissed accordingly.

(Irshad Ali,J.)

March 23, 2026
GK Sinha