



2026:AHC-LKO:2325

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**WRIT - C No. - 12619 of 2025**

Sujeet Kumar

.....Petitioner(s)

Versus

State Of U.P. Thru. Collector Distt. Gonda And 4  
Others

.....Respondent(s)

Counsel for Petitioner(s) : Faiz Ahmad Khan, Nitin Srivastava  
Counsel for Respondent(s) : C.S.C.

**Court No. - 17**

**HON'BLE SUBHASH VIDYARTHI, J.**

1. Heard Shri Nitin Srivastava, the learned counsel for the petitioner, Shri Ram Kumar Maurya, the learned Standing Counsel for the State of U.P. representing the opposite parties no.1 to 4 and Shri Saurabh Tiwari, the learned counsel for the opposite party No.5.

2. By means of the instant petition filed under Article 226 of the Constitution of India, the petitioner has challenged the validity of an order dated 31.07.2025 passed by the Deputy Commissioner (Food), Devipatan Mandal, Gonda in Case no.839 of 2024 filed under Para 13(3) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016.

3. The appeal was filed by the opposite party No.5 against an order dated 12.03.2024 passed by the S.D.M., Mankapur, Gonda rejecting the application filed by the opposite party No.5 for allotment of fair price shop in Village- Bairipur Ramnath, Development Block and Tehsil- Mankapur, District- Gonda on compassionate basis, consequent to death of father of the opposite party No.5- Bhupendra Kumar Tripathi, who was the fair price shop owner and who died on 22.12.2023. The application of the opposite party No.5 was rejected as he was not found to be eligible for allotment of the fair price shop on compassionate ground, as he was an accused in a criminal case bearing Case Crime No. 10 of 2024 under Sections registered in Police Station Rehra Bazar under Sections 323, 504, 506 IPC lodged by one Chhail Bihari and, therefore, he could not produce the character certificate.

4. In appeal, the Additional Commissioner, Food has set-aside the order dated 12.03.2024 holding that during investigation, the Investigating Officer could not trace out and it appears that the case was lodged by a fake person. Accordingly, the Investigating officer has submitted a closure report on 12.02.2024, which was accepted by the learned Additional Civil Judge (Junior Division) / Judicial Magistrate, Utraula, Balrampur by means of an order dated 15.02.2025, wherein it is recorded that the complainant has not filed any protest application against the final report in spite of having been granted numerous opportunities.

5. The Additional Commissioner, Food held that after the opposite party no. 5 submitted the application dated 15.01.2024 for allotment of the fair price shop on compassionate basis, an FIR was lodged on 17.01.2024 by a fake person, which later on resulted in a closure report. It is possible that it was done in order to deprive the opposite party no. 5 from allotment of the fair price shop under a conspiracy. In these circumstances, the opposite party no. 5 deserves to be granted an opportunity to present his case. Accordingly, the Additional Commissioner, Food allowed the appeal, set-aside the order dated 12.03.2024 passed by the S.D.M., Mankapur and remanded the matter to the S.D.M. for being decided afresh within a period of two months.

6. After remand of the matter by the impugned order dated 31.07.2025, the fair price shop in question has been allotted in favour of the opposite party No.5 by means of an order dated 11.12.2025 which has not been challenged by the petitioner.

7. Learned counsel for the opposite parties have submitted that the appellate order was passed on 31.07.2025 and in the writ petition filed challenging the appellate order on 18.12.2025, the delay in filing his writ petition has not been explained.

8. Replying to the aforesaid submissions, the learned counsel for the petitioner submitted that the impugned order has been passed without jurisdiction and it is liable to be set-aside.

9. Learned counsel for the petitioner could not advance any submission in opposition to the objection that the petition suffers from laches.

10. Para 13(3) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 provides that *any person aggrieved by an*

*order of the competent authority denying the issue or renewal of the agreement to the fair price shop owner, suspension or cancellation of the agreement, may appeal to the appellate authority.* This paragraph provides for filing of appeal by a person whose request for issuance of agreement of fair price shop has been denied.

11. When an application submitted by the opposite party No.5 for issuance of a fair price shop license after death of his father, who himself was a fair price shop owner, has been denied, the rejection order would be appealable under Para- 13(3) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016.

12. Therefore, it cannot be said that the impugned appellate order dated 31.07.2025 has been passed by the appellate authority without jurisdiction. This Court finds no good ground to entertain the writ petition which is **dismissed** at the admission stage.

**January 12, 2026**

-Amit K-

**(Subhash Vidyarthi,J.)**