

Murad Begum Vs. District Supply Officer, Bareilly and Another

Murad Begum Vs. District Supply Officer, Bareilly and Another

SooperKanoon Citation : sooperkanoon.com/482400

Court : Allahabad

Decided On : Aug-12-1998

Reported in : 1998(3)AWC2181

Judge : B.K. Roy and ; R.K. Mahajan, JJ.

Acts : Uttar Pradesh High Speed Diesel Oil and Light Diesel Oil (Maintenance of Supplies and Distribution) Order, 1981 - Sections 2

Appeal No. : C.M.W.P. No. 24522 of 1998

Appellant : Murad Begum

Respondent : District Supply Officer, Bareilly and Another

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Y.S. Saxena, Adv.

Judgement :

Binod Kumar Roy and R.K. Mahajan, JJ.

1. The petitioner has come up with the prayer to quash the order dated 19.8.1997 of the Additional Collector (Supply), Bareilly by which a request for substitution of her name in place of her husband, a licensee, has been rejected on the ground that there is no such provision in the Diesel Control Order.

2. Sri Y. S. Saxena. learned counsel appearing in support of petition, contended that the view taken by the Additional Collector (Supply) is thoroughly misconceived and contrary to the orders passed by this Court in Civil Misc. Writ Petition No. 23454 of 1997. He also placed strong reliance on a letter dated 12th August, 1994 sent by the Secretary. Department of Supply. Government of U. P. to all Regional Food Controllers of Uttar Pradesh and the Commissioner of Food and Supply, Uttar Pradesh. Mr. Saxena also placed reliance on Section 2 (h) of the Uttar Pradesh High Speed Diesel Oil and Light Diesel Oil (Maintenance of Supplies and Distribution) Order. 1981.

3. It appears that the petitioner had not disclosed fully her case before this Court in obtaining a limited Rule earlier. Sub-clause (h) of Clause 2 of the Order reads as under :

'(h) 'licensee' means a dealer holding a licence granted under the provisions of this Order and includes-

(i) his representative or agent ; and

(ii) a transport or truck or tank lorry owner engaged by the dealer or an Oil Company on his behalf for transporting High Speed Diesel Oil or Light Oil from storage or selling point of an Oil Company to his place of business ;'

4. Apparently the Legislature meant while expressing the words 'his representative or agent' under sub-clause (i) of Clause (h), to be the representative or agents of such a licensee who is a living one and not a dead one. In the instant case, the petitioner happens to be the widow of a licensee. It is not the case of the petitioner that the shop was co-owned by her along with her deceased husband. The directions as contained in aforementioned letter dated 12th August. 1994, also deal with licensees of such firms in which there is change of co-ownership, partnership or constitution or death of one of the partners.

5. For the aforementioned reasons, this writ petition is dismissed. The impugned order, however, shall not preclude the petitioner, who happens to be a destitute widow, to make an application for grant of licence under the Control Order in

question, which, if made within one month from today, may be considered sympathetically.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com