

AnuddIn Shah and Others Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Dec-11-1998

Reported in : 1998(4)AWC674

Judge : Binod Kumar Roy and ;Ram Kishore Singh, JJ.

Appeal No. : C.M.W.P. No. 27149 of 1992

Appellant : AnuddIn Shah and Others

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : B.B. Paul, Adv.

Judgement :

Binod Kumar Roy and Ram Kishore Singh, JJ.

1. The prayer of the petitioner is to quash the various orders dated 5.12.91, 21.12.91, 19.2.92 without appending any copy thereof and 6.5.92 as contained in Annexure-7 and to command the Respondents to regularly supply quota of foodgrains and all essential articles to them from month to month in respect of their fair price shops.

2. It appears that the petitioners are fair price shop owners. It further appears from the order dated 6.5.92 of the District Supply Officer, Aligarh, as contained in Annexure-7 that the contract in favour of the petitioners was cancelled on the report of Screening Committee which reported their shops to be unsuitable vuqj;qDr.

3. Sri B. B. Paul, learned counsel appearing in support of this writ petition, contended that in view of the Division Bench decision of this Court in Lt. P. Sasta Galla Vikreta Parishad v. State of U. P., Writ Petition No. 1086 (BB) of 1992, dated 27.3.1992 principle of natural justice were violated in not giving any opportunity by the Committee or even after the submission of its report and thus the petitioners are entitled to the reliefs prayed for.

4. In U. P. Sasta Calta Vikreta Parishad v. State of U. P. (supra), the petitioners had filed the writ petition feeling aggrieved by G.O. dated 19.2.1992 by which a Screening Committee was constituted to review the working of the fair price shops established under the Public Distribution Scheme. The Court in that regard observed as follows :

'The petitioner cannot, obviously, be affected by any action or report of the Screening Committee which has been constituted by the State Government to enable it to review the working of the fair price shops. It is only after some prejudicial action is taken or proposed to be taken by the State Government on the basis of the report of the Screening Committee in respect of a particular person of licensee, who is running the fair price shop, that the question of infringement of his rights will arise. We are, therefore, of the view that at the present stage, there is no justification for interfering with the constitution of the Screening Committee which has been done in public interest for making a review of the working of the fair price shops or with the proceedings thereof. We are however, of the opinion that in the interest of fair play and justice, the agreement of any person for running the fair price shop shall not be cancelled or suspended, nor its renewal should be refused, unless he has been given reasonable opportunity of being heard in respect of the proposed action or any adverse material that may be brought to the notice of the State Government by the Screening Committee or which may come to its notice

otherwise.

We, accordingly, direct that no agreement of any person for running the fair price shop shall be cancelled or suspended or renewal thereof shall be refused, unless the State Government is satisfied, after affording a reasonable opportunity of being heard to such person in respect of the proposed action, either on the basis of the report of the Screening Committee or otherwise, that he has committed a breach of the relevant control orders or any other provisions of law and he is given full opportunity to explain the materials prejudicial to him.

The petition is disposed of finally in the manner indicated above.'

5. The question however, before us is as to whether due to non-production of orders dated 5.12.91, 21.12.91 and 19.2.92 in view of the decision of the Apex Court in *Surinder Singh v. Central Government*, AIR 1986 SC 2166 and due to non-assailing by the petitioners the finding recorded in the order dated 6.5.1992 about the non-suitability of their shops on merits, an Interference will be justified? our answer is a definite 'no'. We repeatedly put to Sri Paul, learned counsel for the petitioners as to whether there is any pleading assailing the finding regarding unsuitability of the shops but Sri Paul even after turning the pages of the brief a number of times could not locate such a pleading.

6. Thus, we will not be justified in passing any order in favour of the petitioners.

7. In the result, this writ petition is dismissed.

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