

Court No. - 35

Case :- WRIT - C No. - 15642 of 2020

Petitioner :- Awadhesh Kumar

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Vibhu Rai, Abhinav Gaur, Abhishek Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta, J.

Supplementary affidavit filed today is taken on record.

It is urged that the explanation of the petitioner in response to the show cause notice given in pursuance of order dated 1.4.2019 in Writ-C No.6918 of 2019 has been rejected by the impugned order dated 25.11.2019. The petitioner is a fair price shop dealer. His licence was cancelled by order dated 17.1.2019. The body representing fair price shop dealers namely Upbhokta Sahkari Samiti Ltd. filed Writ-C No. 6918 of 2019 challenging the invitation of applications for appointment of new fair price shop dealer in place of those whose licences were cancelled on similar grounds. This court directed the District Magistrate, Meerut to issue fresh show cause notice and after considering the reply, pass a fresh order. Cancellation orders were made subject to final order to be passed by the District Magistrate. It is the order passed by the District Magistrate in terms of the above order of this Court which is under challenge in the instant petition.

The main ground on which cause shown has not been accepted is that the petitioner had been guilty of making interpolation in the data base of the beneficiaries. It is recorded that Adhaar number of the beneficiaries was got changed through unknown technical operator by seeding mechanism and thereafter by using bio-metric of other persons who are not actual

beneficiaries, the essential commodities have been distributed.

It is vehemently contended by learned counsel for the petitioner that the allegation against the petitioner relating to manipulation in the data base is based on pure conjectures and is not technically possible. The allegation is also vague in as much as it is not specified in the order that with whose collusion the alleged manipulation had taken place. The order itself recites that the same was got done with the help of unknown technical operator. It is further submitted that seeding of adhar number had been done by the NIC as per Clause 2.2 of the Functional Requirements Specification for FPS Automation. In support of the submissions, learned counsel for the petitioner has also placed reliance on the answers given by the District Supply Officer, Meerut in response to questionnaire under Right to Information Act wherein at point No.3, 4 and 5, it is admitted that E-Pose machine cannot be altered by fair price shop dealers; that password/login ID is generated by NIC, Lucknow and it is not possible for fair price shop dealer to change the same; and that in no circumstance it is possible for the fair price shop dealer to alter the Adhaar number fed in the E-Pose machine through the NIC Central Server. It is also submitted that now the respondents are in great haste to appoint new dealer in place of the petitioner and in this regard advertisement has also been issued.

The submissions appears to have force.

Let Principal Secretary, Food & Civil Supply Department, Government of U.P. Lucknow file his personal affidavit in the context of the above submission and explain how it is possible for a fair price shop dealer to change the Adhaar number in the data base which is accessible only to NIC.

List on 22.10.2020.

In the meantime, the respondents shall not make any fresh allotment of dealership but it shall be open to them to attach the card holders with some other fair price shop dealer.

Sri S.P. S. Rathor, learned standing counsel shall communicate this order to the Principal Secretary, Food and Civil Supply Department, Government of U.P., Lucknow, so that it is duly complied with.

(Manoj Kumar Gupta, J.)

Order Date :- 8.10.2020

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