

**Court No. - 35**

**Case :-** WRIT - C No. - 2993 of 2020

**Petitioner :-** Rajesh Kumar

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Vinod Kumar Sharma

**Counsel for Respondent :-** C.S.C., Krishna Kant Singh

**Hon'ble Manoj Kumar Gupta, J.**

The instant petition has been filed praying for quashing of the order dated 3.12.2019 passed by Sub Divisional Officer, Chhibramau, Kannauj (respondent nos. 4 herein) whereby the representation of the petitioner seeking appointment as fair price shop dealer, being dependent of the deceased dealer Bhaiya Lal, has been rejected solely on the ground that the application was filed beyond the prescribed period of 45 days.

The facts in brief are that the father of the petitioner, namely Bhaiya Lal was fair price shop dealer of the village. He died on 31.1.2019. According to the petitioner, he filed an application in the office of respondent no. 4 for allotment of the dealership in his name in terms of Government Order dated 15.2.2019. However, when no heed was paid to his request, he filed Writ - C No. 36491 of 2019 before this Court. It was disposed of by order dated 6.11.2019 with a direction to respondent no. 4 to decide his representation within two weeks. In terms thereof, the instant decision has been taken. One of the findings returned in the impugned order is that the alleged representation of the petitioner dated 9.3.2019 is not on record, but only a

representation dated 1.8.2019 received by registered post is available. It has also been held that the said representation dated 1.8.2019 having been received beyond 45 days from the date of death of the father of the petitioner, is beyond the time limit prescribed in Government Order dated 15.2.2019, consequently, the shop cannot be allotted to the petitioner.

Learned counsel for the petitioner submitted that it is usual practice in the office of respondent no. 4 not to acknowledge receipt of representations/applications. It is submitted that the representation was duly handed over to the concerned clerk in the office of respondent no. 4 on 9.3.2019, but when no action was taken on the same, another representation was sent by registered post on 3.9.2019. These facts were also clearly stated by the petitioner in his reminder dated 21.11.2019. It is also urged that till date, the dealership has not been allotted to any one and therefore, there is no impediment in considering the petitioner's application for grant of dealership to him. He also urged that as per finding recorded in the impugned order, there was a ban imposed by the State Government itself at the time of death of his father for allotting dealership on compassionate grounds to the dependent of a deceased dealer. Consequently, even otherwise, the application was not entertainable at that point of time.

Learned Standing Counsel submitted that in the impugned order, a specific finding has been recorded that no application dated 9.3.2019 was ever received in the office of respondent no. 4. He further submitted that since the representation dated 1.8.2019 was filed beyond the prescribed period of 45 days, therefore there is no illegality in the impugned order.

I have considered the submissions of learned counsel for the parties and perused the material on record.

Government Order dated 15.2.2019 stipulates that dependent of a deceased dealer should file application within 30 days from the date of death for allotment of dealership in his name. The said time limit is extendable by 15 days. The object of prescribing the time limit is to ensure that there is no unnecessary delay in making arrangement for distribution of scheduled commodities to the cardholders. It is for the same reason that under Government Order dated 5.8.2019, the entire proceeding relating to disposal of application for allotment of dealership on compassionate basis is required to be completed within two months. Under paragraph 8(9) of the U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016, in case of cancellation of the agreement of fair price shop, new dealership agreement is required to be issued within a month of cancellation. Here also the object of prescribing a time limit, is to obviate unnecessary delay. The

object of framing scheme for allotting dealership to the dependent of a deceased dealer is to tide over the financial difficulty which befall upon the family on account of death of the bread earner. I am of the opinion that the said time limit is therefore directory in nature and in appropriate cases, it can be relaxed. Since in the instant case no fresh dealership has been finalized till date and on the other hand, the case of the petitioner is that he had duly filed application for allotment of dealership in his name well within the prescribed time limit, but its acknowledgement was not issued by the office of respondent no. 4, therefore I am of considered opinion that a lenient view should be taken. In case the application of the petitioner is directed to be considered on merits, no prejudice is going to be caused to any one, as no new dealer has been appointed till date.

Accordingly, the impugned order dated 3.12.2019 is quashed. Respondent no. 4 is directed to consider the application of the petitioner for allotment of dealership in his name in place of his deceased father on merits, within a period of six weeks from the date of production of a true attested copy of the instant order.

The petition stands allowed to the extent indicated above.

(Manoj Kumar Gupta, J.)

**Order Date :- 8.10.2020**  
Jaideep/-