

Court No. - 1

Case :- P.I.L. CIVIL No. - 22348 of 2020

Petitioner :- Shiv Prasad Chaubey

Respondent :- State Of U.P.Thru.Addl.Chief Secy. Food & Civil Supply & Ors

Counsel for Petitioner :- Ashutosh Misra

Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey

Hon'ble Ritu Raj Awasthi,J.

Hon'ble Dinesh Kumar Singh,J.

1. Heard.

2. This is 6th writ petition filed by the petitioner, feeling aggrieved due to allotment of fair-price-shop licence to respondent no. 6-Atmaram Chaubey. In this public interest litigation petition, the petitioner has approached this Court for the following reliefs:-

(i) Issue writ order or direction in nature of certiorari for quashing the impugned order dated 24.08.2019 passed by opposite party No. 2 and order dated 25.07.019 passed by opposite party No. 3, contained as Annexure No. 2 & 3 in the interest of justice.

(ii) Issue writ order or direction in nature of mandamus commanding to opposite party no. 2 to 4 that they consider the case of petitioner and take all coercive action against opposite party no. 5 to 7 according to law and to ensure the recovery of the public funds which are embezzled/misused under collusion of opposite party no.5 to 7, in the interest of justice.

(iii). Any other.....".

3. To put the record straight, we give detail of earlier writ petitions filed on behalf of the petitioner as under:-

(i) Misc. Single No. 195 of 2020 'Shiv Prasad Chaubey Vs. State of U.P. and others'. This writ petition was dismissed as withdrawn vide order dated 07.01.2020, allowing the prayer of the petitioner to file a public interest litigation petition with regard to the controversy raised in the writ petition.

(ii) P.I.L. Civil No.12823 of 2020 'Shiv Prasad Chaubey Vs. State of U.P. and others'. This writ petition was dismissed as withdrawn vide order dated 06.08.2020 with liberty to file afresh with better particulars.

(iii) Misc. Bench No.11363 of 2018 'Shiv Prasad Vs. State of U.P. and others'. This writ petition was dismissed with costs vide order dated 19.04.2018, operative portion of which is reproduced herein below:-

" By means of this writ petition, the petitioner has prayed that an inquiry may be directed to be made against 275 ration cards and his representation in this regard may also be directed to be decided in a time bound manner.

This Court does not act as an investigating agency and such prayer has been made only to be rejected.

Since the petitioner has filed this writ petition in a most callous manner, the writ petition

is dismissed with a cost of Rs.1000/-, which is to be deposited in the Library Fund of Oudh Bar Association."

On asking by the Court whether the petitioner has deposited the amount of cost, as directed above, the learned counsel for the petitioner has submitted that the petitioner deposited the cost and, a supplementary affidavit, in this regard, has been filed.

(iv) Misc. Single No.4998 of 2019 'Shiv Prasad Vs. State of U.P. and others'. This writ petition was disposed of vide order dated 21.02.2019, relevant portion of which is reproduced herein below:-

"This petition is disposed of with the direction, the petitioner may file a representation before the authority concerned who shall consider and decide the same within a period of three months from the date of receipt of such representation."

(v) Contempt No.1510 of 2019 'Shiv Prasad Vs. Dr. Nitin Bansal and another'. This contempt petition was dismissed and notices were discharged vide order dated 26.08.2019.

4. Now, the petitioner has filed the instant writ petition, challenging the order dated 24.08.2019 passed by respondent no. 2 and order dated 25.07.2019 passed by respondent no. 3 as contained in Annexure No. 2 & 3 thereby the District Magistrate has come to conclusion that since the licence of fair-price-shop in question of Atmaram Chaubey, respondent no. 6 has already been cancelled, no further action is required on the complaint of the petitioner and, the representation of the petitioner dated 11.03.2010 has been considered and rejected pursuant to Court's order dated 21.02.2019 passed in Writ Petition Misc. Single No.4998 of 2019.

5. It is relevant to note that perusal of the impugned order dated 25.07.2019, which is said to have been passed in compliance of this Court's order dated 21.02.2019 passed in Writ Petition Misc. Single No.4998 of 2019, clearly indicates that the petitioner is a close relative of the erstwhile fair-price-shop holder-respondent no. 6, Atmaram Chaubey and, there is a family dispute between them relating to partition of their family property. The complaint was made by the petitioner with vengeance and out of spite to settle personal score with respondent no. 6, Atmaram Chaubey, as such, without verifying the facts no action should be taken on the complaint of the petitioner.

6. Thus, it is evidently clear that the petitioner has vested interest in the matter as he is a close relative of respondent no. 6 and, has personal grudge/vengeance against him. This public interest litigation petition, in the given facts and circumstances, cannot be for the interest of the card-holders and appears to have been filed with person grudge/interest. The conduct of the petitioner clearly indicates that he is habitual litigant who has

been approaching the Court on frivolous grounds and, with deliberate and mala fide intentions to unnecessarily raise grievance against respondent no. 6 and harass him. We highly deprecate this type of practice and dismiss this writ petition with a costs of Rs. 25,000/- (Rupees twenty five thousand) which shall be paid by the petitioner within one month from today and deposit the same in the Government Treasury, failing which the competent authority(s) shall recover the same as 'arrears of land revenue'.

Order Date :- 30.6.2021

MVS/-