

the present case are different from the facts and circumstances of the case in re: *Tej Prakash Pathak (supra)* and in re: *Shankarsan Dash (supra)*, therefore, it would not be applicable in the present case.

42. It is apt to note here that there may not be any dispute on the trite law that the appointment may be denied even after placement in the select list.

43. Therefore, in view of what has been considered above, I hereby set aside/quash the impugned order dated 27.11.2019 issued by the Registrar of Baba Saheb Bhimrao Ambedkar University, Lucknow along with resolution of the Board of Management dated 31.10.2018 and the confirmation order of the Board of Management dated 20.08.2019, as mentioned in the impugned order, so far as it relates to the petitioners of both the aforesaid writ petitions.

44. The opposite parties are directed to forthwith give effect to the offer of appointment dated 08.06.2018 and appoint the petitioners on the post of Producer with all consequential service benefits.

45. Accordingly, both the aforesaid writ petitions are *allowed*.

46. No order as to cost.

Before parting with, I appreciate the efforts of research work done by Mr. Rudra Singh Krishna and Ms. Mariyam Iqbal, Law Interns in finding out the relevant case laws applicable in the present case.

(2025) 6 ILRA 170
ORIGINAL JURISDICTION

CIVIL SIDE

DATED: ALLAHABAD 10.06.2025

BEFORE

THE HON'BLE PRAKASH PADIA, J.

Writ C No. 38609 of 2019
 With other connected cases

M/s Sajid

...Petitioner

Versus

State of U.P. & Ors.

...Respondents

Counsel for the Petitioner:

Samarth Sinha, Vijay Sinha, Vishal Tandon

Counsel for the Respondents:

C.S.C.

(A) Administrative Law - Fair Price Shop - Cancellation of Licence - The Essential commodities Act, 1955 - Section 3/7 & 13(2) - UP Essential Commodities (Regulation of Sale & Distribution Control) Order, 2016 - Information Technology Act, 2000 - Section 43, 60, 66 - Cancellation of fair price shop licence cannot be ordered merely on the ground of lodging of a criminal case - Government Order dated 05.08.2019 prescribes a mandatory preliminary inquiry prior to cancellation/suspension - Failure to follow prescribed procedure vitiates order of cancellation - Licence of fair price shop cannot be cancelled only on ground of FIR registration under Section 3/7 of the Essential Commodities Act without conducting proper inquiry under Government Order dated 05.08.2019. (Para - 32, 33, 34)

Licence of the petitioner's fair price shop was cancelled - ground - FIR was lodged under Section 3/7 of the U.P. Essential Commodities Act and 66 of I.T. Act - no preliminary inquiry as mandated by the Government Order dated 05.08.2019 was conducted - Statutory appeals under Clause 13(2) of Control Order, 2016 were dismissed. (Para - 3 to 24, 31, 32)

HELD: - Fair price shop licence/agreement could not be cancelled on the ground of registration of F.I.R. under Section 3/7 Essential Commodities Act. It is mandatory for the authorities to conduct a preliminary inquiry as prescribed under the Government Order dated 05.08.2019 before cancelling or suspending the licence. Since this procedure was not followed, the cancellation order is unsustainable. Authorities were directed to restore the fair price shop licences forthwith. (Para 32, 33, 34, 36)

Petitions allowed. (E-7)

List of Cases cited:

1. Bajrangi Tiwari Vs The Commissioner Devi Patan Mandal Gonda & anr., Misc. Single No. 8033 of 2013
2. Amit Kumar Vs St. of U.P. & ors., Writ C No.2029 of 2022
3. Mohd. Amir Vs St. of U.P. & ors., SLP (Civil) No.25501 of 2024

(Delivered by Hon'ble Prakash Padia, J.)

1. Heard Sri Vishal Tandon, learned counsel along with Samarth Sinha, learned counsel for the petitioner and Sri Ashok Mehta, learned Senior Counsel/Additional Advocate General assisted by Sri Vijay Shanker Prasad, learned Additional Chief Standing Counsel for the respondents.

2. Since the question of law involved in all petitions are similar i.e., whether the fair price shop licence/agreement could be cancelled/suspended on the ground of registration of F.I.R. under Section 3/7 Essential Commodities Act, they are being decided by this common judgement.

Writ C No. - 38609 of 2019

3. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Meerut vide its order dated 14.09.2018 only on the ground that an F.I.R. under Section 3/7 of Essential Commodities Act and 66 of the I.T. Act has been lodged against the petitioner. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 12.11.2019. Aggrieved with the aforesaid orders, the petitioner has preferred the present petition.

Writ C No. - 21616 of 2019

4. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Bijnor vide its order dated 06.09.2018 and thereafter the same was cancelled vide order dated 18.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Moradabad Division, Moradabad which had been rejected by him vide order dated 27.05.2019.

Writ C No. - 30465 of 2019

5. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Bijnor vide its order dated 06.09.2018 and thereafter the same was cancelled vide order dated 19.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 66C of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Moradabad Division, Moradabad which had been rejected by him vide order dated 13.08.2019.

Writ C No. - 32174 of 2019

6. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 31.08.2018 and thereafter the same was cancelled vide order dated 10.01.2019 on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division,

Meerut which had been rejected by him vide order dated 28.05.2019.

Writ C No. - 32614 of 2019

7. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 31.08.2018 and thereafter the same was cancelled vide order dated 10.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 02.09.2019.

Writ C No. - 37063 of 2019

8. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 31.08.2018 and thereafter the same was cancelled vide order dated 10.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section

Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 06.11.2019.

Writ C No. - 37249 of 2019

9. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 30.08.2018 and thereafter the same was cancelled vide order dated 20.02.2019/21.02.2019 on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 08.11.2019.

Writ C No. - 38622 of 2019

10. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Meerut vide its order dated 14.09.2018 and thereafter the same was cancelled vide order dated 08.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food

Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 66 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 12.11.2019.

Writ C No. - 38638 of 2019

11. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Meerut vide its order dated 14.09.2018 and thereafter the same was cancelled vide order dated 09.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 66 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 12.11.2019.

Writ C No. - 38643 of 2019

12. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer,

Meerut vide its order dated 14.09.2018 and thereafter the same was cancelled vide order dated 09.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 66 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 12.11.2019.

Writ C No. - 38649 of 2019

13. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Meerut vide its order dated 14.09.2018 and thereafter the same was cancelled vide order dated 09.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 66 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 12.11.2019.

Writ C No.40437 of 2019

14. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 31.08.2018 and thereafter the same was cancelled vide order dated 21.02.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 08.11.2019.

Writ C No.40444 of 2019

15. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 31.08.2018 and thereafter the same was cancelled vide order dated 10.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division,

Meerut which had been rejected by him vide order dated 06.11.2019.

Writ C No.40451 of 2019

16. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 31.08.2018 and thereafter the same was cancelled vide order dated 10.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 06.11.2019.

Writ C No.1852 of 2020

17. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 31.08.2018 and thereafter the same was cancelled vide order dated 10.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section

Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 18.11.2019.

Writ C No.1866 of 2020

18. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Ghaziabad vide its order dated 30.08.2018 and thereafter the same was cancelled vide order dated 10.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and 43 of the I.T. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 18.11.2019.

Writ C No. - 2382 of 2019

19. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Agra vide its order dated 30.08.2018 and thereafter the same was cancelled vide order dated 15.03.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food

Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and under Section 420 & 120B I.P.C has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Agra Division, Agra which had been rejected by him vide order dated 08.11.2019.

Writ C No. - 5595 of 2020

20. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Meerut vide its order dated 14.09.2018 and thereafter the same was cancelled vide order dated 22.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Commissioner, Meerut Division, Meerut which had been rejected by him vide order dated 14.11.2019.

Writ C No. - 21467 of 2020

21. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Amroha vide its order dated 11.09.2018 and thereafter the

same was cancelled vide order dated 05.03.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and under Sections 420, 467 & 468 I.P.C. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Additional Commissioner (Administration), Moradabad Division, Moradabad which had been rejected by him vide order dated 24.02.2020.

Writ C No. - 21533 of 2020

22. Facts in brief as contained in this writ petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Amroha vide its order dated 11.09.2018 and thereafter the same was cancelled vide order dated 05.03.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and under Sections 420, 467 & 468 I.P.C. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Additional Commissioner (Administration), Moradabad Division, Moradabad which had been rejected by him vide order dated 24.02.2020.

Writ C No. - 22154 of 2020

23. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Amroha vide its order dated 30.08.2018 and thereafter the same was cancelled vide order dated 01.04.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and under Sections 420, 467 & 468 I.P.C. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent No.2/Additional Commissioner (Administration), Moradabad Division, Moradabad which had been rejected by him vide order dated 24.02.2019.

Writ C No. - 17812 of 2023

24. Facts in brief as contained in this petition are that the petitioner was fair price shop license holder and his license of fair price shop was suspended by the respondent No.3/District Supply Officer, Moradabad vide its order dated 06.09.2018 and thereafter the same was cancelled vide order dated 08.01.2019 only on the ground that the petitioner misused the Aadhar Card many times and manipulated the Food Grains for which an F.I.R. under Section 3/7 of Essential Commodities Act and under Sections 417, & 419 I.P.C. Act has been lodged against him. Aggrieved with the aforesaid order, statutory appeal as provided under Section Section 13(2) of U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 was filed by he petitioner before the respondent

No.4/Additional Commissioner Second, Moradabad Division, Moradabad which had been rejected by him vide order dated 05.03.2020. Against the aforesaid order, a review application has also been filed before him which was also rejected by the respondent No.4 vide its order dated 07.09.2022.

25. It is argued by learned counsel for the petitioners in all the aforesaid writ petitions that statement of ration card holders were not recorded by the Inquiry Officer in the presence of the petitioner nor opportunity of hearing was provided to him to cross-examine the aforesaid witnesses. It is further stated in the writ petition that no full-fledged enquiry has been conducted against the petitioner (Fair Price Shop Dealer) and no charge sheet has been served upon the petitioner and no date and place of hearing has been informed to the petitioner in respect of the enquiry conducted against him prior passing the impugned termination order. It is further stated that the license of the fair price shop could not be cancelled only on the ground that the F.I.R. has been lodged against the petitioner under Section 3/7 Essential Commodities Act. It is argued that the controversy involved in all the aforesaid writ petitions has already been settled up by the Full Bench of this Court Court in the case of *Misc. Single No. 8033 of 2013 delivered on 26.10.2017 Bajrangi Tiwari Vs. The Commissioner Devi Patan Mandal Gonda And Another* in which following questions were referred to the larger Bench which reads as follows:-

"1. Whether the fair price shop licence can be cancelled merely on lodging of a criminal case against the licensee?; and

2. Whether, while passing any such order the Government Order dated

17.8.2002, particularly para-10 of said Government Order would be applicable/considered or not?"

26. The answers of the aforesaid questions have been given by the Full Bench which reads as follows:-

(i) The answer is no. Licence of a fair price shop cannot be cancelled merely on lodging of FIR against the licensee.

(ii) The answer is no. The Government order dated 17.8.2002 relates to allotment of a fair price shop and hence the same cannot be referred to in suspension/cancellation of licence. It is the Government order dated 29.7.2014 according to which the suspension/cancellation of a fair price shop licence can take place.

27. It is further argued that the provisions contained in the Government Order dated 05.08.2019 should be complied with by the respondents before passing the aforesaid orders but the same was not complied with. Hence the order is bad in the eyes of law and the same is liable to be set aside. It is argued that a writ petition was filed by one Amit Kumar being *Writ C No.2029 of 2022 (Amit Kumar Vs. State of U.P. and others)* before this Court and this Court taking into consideration the order passed by Full Bench of this Court in the case of *Bajrangi Tiwari (supra)* allowed the writ petition vide order dated 11.09.2024 holding therein that fair price shop license could not be cancelled merely on the ground of lodging of F.I.R. under Section 3/7 Essential Commodities Act. The order dated 11.09.2024 reads as follows:-

1. Heard Sri Vishal Tandon, learned counsel for the petitioner and Sri Ravindra Kumar Tripathi, learned Standing Counsel for the State.

2. Brief facts of the case are that petitioner was granted a licence for fair price shop and petitioner was running the fair price shop since long. Proceeding against the petitioner was initiated and the licence of the petitioner was cancelled vide order dated 26.12.2018. Appeal filed by petitioner against the cancellation order dated 26.12.2018 was also dismissed vide order dated 4.3.2021. Hence, this writ petition is filed for following reliefs:-

"i) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 04.03.2021 passed by Joint Commissioner Food Saharanpur in appeal no.93/2020-21 and 94/2020-21 and order dated 26.12.2018 and 1.9.2018 passed by District Supply Inspector Muzaffar Nagar.

ii) Issue a writ, order or direction in the nature of mandamus directing to the respondent authorities to restore the fare price shop license in favour of the petitioner.

iii) Issue a writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. This Court vide order dated 11.02.2022 entertained the matter and directed the State to file counter affidavit.

4. In pursuance of the order dated 11.02.2022 the pleadings have been exchanged between the parties.

5. *Learned counsel for the petitioner submitted that fair price shop licence of the petitioner has been cancelled in violation of the provisions contained under the Government Order dated 05.08.2019 as well as provisions contained under the U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016. He next submitted that no preliminary enquiry has been conducted in the matter and the licence of the petitioner has been cancelled on misconceived grounds. He submitted that lodging of First Information Report under Section 3/7 of the U.P. Essential Commodities Act 1955 can not be a ground for the suspension or cancellation of the fair price shop licence unless there is proper enquiry in the matter He placed the reliance on the Full Bench Judgment of this Court passed in Misc. Single No. 8033 of 2013. D/d. 26.10.2017 Bajrangi Tiwari Vs. The Commissioner Devi Patan Mandal Gonda And Another in order to demonstrate that on the ground of lodging first information report, fair price shop licence cannot be cancelled. He submitted that in view of the violation of the mandatory provisions contained under the Government Order dated 05.08.2019 and the Control Order, 2016 the impugned orders can not be sustained and are liable to be set aside by this Court.*

6. *Learned Standing Counsel for the State submitted that proceedings were initiated against the petitioner and it has been found that there was irregularity on the part of the petitioner regarding distribution of essential commodities to the cardholders, as such licence of the petitioner has rightly been cancelled. He submitted that criminal proceeding was also initiated against the petitioner and the First Information Report has been lodged*

under Section 3/7 of the Essential Commodities Act and Section 420 of Indian Penal Code as such no interference is required in the matter and the writ petition is liable to be dismissed.

7. *I have considered the arguments advanced by the learned counsel for the parties and perused the record.*

8. *There is no dispute about the fact that petitioner was granted fair price shop licence by the Authorities. There is also no dispute about the fact that under the impugned order, the petitioner's licence has been cancelled and the appeal has also been dismissed.*

9. *In order to appreciate the controversy involved in the matter a perusal of the Government Order dated 05.08.2019, which is applicable to Rural and Urban Area in respect to the suspension/cancellation of the fair price shop licence will be necessary which is as under:*

प्रेषक,

ओम प्रकाश वर्मा,
विशेष सचिव,
उत्तर प्रदेश शासन।

सेवा में,

1- आयुक्त, खाद्य एवं रसद विभाग,
उ०प्र०।
2- समस्त जिलाधिकारी, उत्तर प्रदेश।
3- समस्त जिला पूर्ति अधिकारी,

उत्तर प्रदेश।

खाद्य एवं रसद अनुभाग-6

लखनऊ: दिनांक 05 अगस्त, 2019

विषय: ग्रामीण एवं शहरी क्षेत्र की उचित दर की दुकानों के निलम्बन/निरस्तीकरण एवं सम्बद्धीकरण के सम्बन्ध में प्रक्रिया का निर्धारण।

महोदय,

उपर्युक्त विषयक लक्षित सार्वजनिक वितरण प्रणाली के अन्तर्गत कार्यरत उचित दर दुकानों के विरुद्ध प्राप्त शिकायतों की जाँच एवं तत्क्रम में उनके विरुद्ध संपादित की जाने वाली कार्यवाहियों यथा निलम्बन, निरस्तीकरण एवं सम्बद्धीकरण के सम्बन्ध में समय-समय पर विभिन्न शासनादेशों के माध्यम से निर्देश प्रसारित किये गये हैं। वर्तमान में लागू राष्ट्रीय खाद्य सुरक्षा अधिनियम-2013 एवं तत्क्रम में जारी उत्तर प्रदेश आवश्यक वस्तु (विक्रय एवं वितरण नियंत्रण का विनियमन) आदेश-2016 तथा उत्तर प्रदेश खाद्य सुरक्षा नियमावली-2015 के प्रख्यापन तथा लाभार्थियों को आवश्यक वस्तुओं के वितरण में तकनीकी अनुपयोग (पब्लिक पोर्टल पर सम्बद्ध लाभार्थियों का ऑनलाइन प्रदर्शन एवं तदुसार आवंटन का सृजन तथा ई०पी०ओ०एस० मशीनों के माध्यम से कराये जा रहे वितरण) तथा डोर स्टेप डिलीवरी का कार्य प्रचलित होने के दृष्टिगत पूर्व में निर्गत समस्त शासनादेशों को अवक्रमित करते हुये वर्तमान परिदृश्य में निम्नवत व्यवस्था निर्दिष्ट किये जाने का मुझे निदेश हुआ है:-

1- उचित दर दुकानों के विरुद्ध प्राप्त शिकायतों की जाँच-

(1) उचित दर विक्रेताओं के विरुद्ध सामान्यतया आवश्यक वस्तुएँ प्राप्त न होने, विक्रेता द्वारा घटतौली किये जाने, अधिक मूल्य लिये जाने, एवं सूची में नाम न होने का बहाना बनाकर खाद्यान्न न देने, ई-पॉस मशीन में नेटवर्क न आने सर्वर डाउन होने का बहाना बनाकर खाद्यान्न वितरण के पूर्व ही बायोमेट्रिक प्रमाणीकरण कराकर लाभार्थियों को वास्तव में खाद्यान्न न देकर कालाबाजारी कर लेने तथा यूनिट के सापेक्ष कम खाद्यान्न देने, कार्ड में दर्ज यूनिटों के सापेक्ष कम यूनिट के आधार फीड होने का आधार लेकर शेष यूनिटों का खाद्यान्न न देने, उपभोक्ताओं से दुर्व्यवहार करने, समय से दुकान न खोलने, आवश्यक सूचनाओं का प्रदर्शन न करने, आदि शिकायतें प्राप्त होती हैं। शिकायत मुख्यतः मा० मुख्यमंत्री हेल्प लाइन, विभागीय टोल फ्री नम्बर कॉल सेन्टर, आई०जी०आर०एस०, तहसील दिवस, उप जिलाधिकारी, जिला पूर्ति अधिकारी, जिलाधिकारी, मण्डलायुक्त, खाद्यायुक्त एवं शासन पर लिखित में डाक द्वारा, व्यक्तिगत रूप से एवं दूरभाष पर प्राप्त होती हैं। शिकायतकर्ता मुख्यतः तीन प्रकार के हो सकते हैं, यथा विशिष्ट व्यक्ति,

सम्बन्धित उचित दर विक्रेता से सम्बद्ध कार्डधारक एवं सम्बन्धित उचित दर विक्रेता से सम्बद्ध लाभार्थियों से भिन्न अन्य श्रोत/व्यक्तियों के स्तर से प्राप्त शिकायतें।

(2) उपरोक्तानुसार प्राप्त होने वाली शिकायतों पर कार्यवाही जाँच के सम्बन्ध में निम्नवत प्रक्रिया अपनायी जाये-

(क) विशिष्ट व्यक्तियों से प्राप्त शिकायती पत्रों के सम्बन्ध में कार्यवाही आरम्भ करने से पूर्व सम्बन्धित विशिष्ट व्यक्ति को पत्र भेजकर यह पुष्टि कर ली जाय कि पत्र उन्हीं के द्वारा हस्ताक्षरित है और शिकायतों के सम्बन्ध में उनको समाधान हो गया कि शिकायतें तथ्यों पर आधारित हैं।

(ख) सम्बन्धित उचित दर विक्रेता से सम्बद्ध कार्डधारकों के स्तर से प्राप्त शिकायतों पर कार्यवाही से पूर्व शिकायतों की प्रारम्भिक जाँच की जाए। उचित दर दुकानों के विरुद्ध जाँच प्रक्रिया के दौरान विक्रेता द्वारा ई-पॉस के माध्यम से किये गये वितरण का विकरण (एम०आई०एस० रिपोर्ट) जो पब्लिक पोर्टल पर उपलब्ध है, का संज्ञान अवश्य लिया जाय। विक्रेता द्वारा प्रदर्शित वितरण का मिलान कार्डधारकों के राशन कार्ड में दुकानदारा द्वारा की गयी प्रविष्टियों से भी किया जा सकता है। साथ ही शिकायतकर्ता व अन्य सम्बन्धित पक्षों का कथन अंकित करते समय उनका प्रतिपरीक्षण भी अवश्य किया जाये ताकि जाँच कार्यवाही की निष्पत्ता प्रथम दृष्टया स्थापित हो एवं अनावश्यक लिटिगेशन की स्थिति उत्पन्न न हो। (ग) अन्य स्रोतों/व्यक्तियों से प्राप्त शिकायतों के सम्बन्ध में यदि शिकायती पत्र शपथ पत्र से समर्थित नहीं है, तो शिकायतकर्ता से इस बारे में एक शपथ पत्र उपलब्ध कराने को कहा जाए और शपथ पत्र प्राप्त होने के उपरान्त ही आगे की कार्यवाही की जाए।

(घ) उचित दर विक्रेता के विरुद्ध किसी एक या अत्यन्त अल्प संख्या में उपभोक्ताओं द्वारा उचित दर विक्रेता की दुकान पर जाने के बावजूद अपना अनुमन्य खाद्यान्न प्राप्त न होने की स्थिति में वे अपनी शिकायत जिला शिकायत निवारण अधिकारी के समक्ष भी दर्ज करा सकते हैं, जो निर्धारित प्रक्रिया का पालन करते हुए प्रकरण के परीक्षणोपरान्त उसकी नियमानुसार हकदारी/खाद्य सुरक्षा भत्ता दिलाया जाना सुनिश्चित करेंगे।"

10. A perusal of the Government Order as quoted above fully demonstrates that preliminary inquiry is to be conducted by the Authorities before suspension/cancellation of the fair price shop licence of the licence holder.

11. Perusal of the aforesaid Government Order dated 05.08.2019 as

well as impugned orders and other evidence on record reveals that procedure prescribed under the Government Order has not been followed by the authority and the licence of the petitioner has been cancelled on the ground that first information report has been lodged against the petitioner under Section 3/7 of the U.P. Essential Commodities Act and Section 420 of Indian Penal Code. In full Bench judgment of this Court in Bajrangi Tiwari (Supra) it has been clearly held that fair price shop can not be cancelled merely on the ground of lodging criminal case.

12. Considering the entire facts and circumstances of the case as well as the ratio of law laid down by the Full Bench of this Court in Bajrangi Tiwari (Supra) impugned order dated 26.12.2018 passed by the respondent no. 3 and appellate order dated 4.3.2021 passed by the respondent no. 2 are liable to be set aside and the same are hereby set aside.

13. The writ petition stands allowed and the respondents are directed to restore the fair price shop licence of the petitioner forthwith.

14. No order as to costs.

28. The aforesaid order was challenged before the Hon'ble Supreme Court by one Mohd. Amir by filing **Special Leave Petition (Civil) No.25501 of 2024 (Mohd. Amir Vs. State of U.P. and others)** and the aforesaid S.LP. was dismissed by the Hon'ble Supreme Court vide order dated 21.04.2025. The order dated 21.04.2025 reads as follows:-

1. We are not inclined to interfere with the impugned judgement and order of

the High Court; hence, the special leave petitions are dismissed.

2. Pending application(s), if any, shall stand disposed of.

29. On the other hand, it is argued by learned Senior Counsel for the respondents that proper enquiry was conducted wherein it was found that petitioner has misused Aadhar card for withdrawing food grains illegally from various ration cards through FPS Automation System through E-POS machine and black marketed them pursuant to the aforesaid offence committed by the petitioner and the F.I.R. has already been registered. In this view of the matter, it is argued that the action was rightly taken by the respondents against the petitioner. Insofar as the law laid down by this Court in the case of **Bajrangi (supra)** and **Amit Kumar (supra)** is concerned, learned Standing Counsel has admitted that the controversy involved in all the aforesaid petitions has also been settled up to the Hon'ble Supreme Court and law has been laid down that the fair price shop license could not be cancelled only on the ground of registration of F.I.R. under Section 3/7 Essential Commodities Act.

30. Heard learned counsel for the parties and perused the record.

31. There is no dispute about the fact that petitioner of all the aforesaid writ petitions was granted fair price shop licence by the Authorities and by the impugned order, the petitioner's licence of fair price shop has been cancelled on the ground that the F.I.R. has been lodged under Section 3/7 of Essential Commodities Act for misusing the Aadhar Card and malpractice in distribution of

food grains and the appeal filed against the aforesaid order has also been dismissed.

32. From perusal of the Government Order dated 05.08.2019 which is quoted above in the judgement of Amit Kumar (supra) fully demonstrates that preliminary inquiry is to be conducted by the Authorities before suspension/cancellation of the fair price shop licence of the licence holder. But from perusal of the impugned orders and other evidence on record reveals that procedure prescribed under the aforesaid Government Order has not been followed by the authority and the licence of the petitioner has been cancelled on the ground that first information report has been lodged against the petitioner under Section 3/7 of the U.P. Essential Commodities Act and Section 60/43 of I.T. Act.

33. The Full Bench judgment of this Court in the case of *Bajrangi Tiwari (Supra)* held that license of fair price shop cannot be cancelled merely on the ground of lodging criminal case. The aforesaid law has been again reaffirmed by this Court in the case of Amit Kumar (supra) which has also been affirmed by the Hon'ble Supreme Court in the case of Mohd. Amir (supra).

34. In view of the above discussion, the Court is of the opinion that the fair price shop licence/agreement could not be cancelled on the ground of registration of F.I.R. under Section 3/7 Essential Commodities Act.

35. In this view of the matter, impugned order dated 08.01.2019 & dated 12.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 38609 of 2019, impugned order dated 18.01.2019 & dated 27.05.2019 passed by

the District Supply Officer and Appellate Authority in Writ C No. 21616 of 2019, impugned order dated 19.01.2019 & dated 1308.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 30465 of 2019, impugned order dated 10.01.2019 & dated 28.05.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 32174 of 2019, impugned order dated 10.01.2019 & dated 02.09.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 32614 of 2019, impugned order dated 10.01.2019 & dated 06.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 37063 of 2019, impugned order dated 20.02.2019 and 21.02.2019 & dated 08.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 37249 of 2019, impugned order dated 08.01.2019 & dated 12.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 38622 of 2019, impugned order dated 09.01.2019 & dated 12.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No.38638 of 2019, impugned order dated 09.01.2019 & dated 12.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 38643 of 2019, impugned order dated 09.01.2019 & dated 12.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 38649 of 2019, impugned order dated 21.02.2019 & 08.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 40437 of 2019, impugned order dated 10.01.2019 & dated 06.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 40444 of 2019, impugned order dated 10.01.2019 & dated 06.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No.40451 of 2019, impugned order dated

10.01.2019 & dated 18.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 1852 of 2020, impugned order dated 10.01.2019 & dated 18.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 1866 of 2020 impugned order dated 05.03.2019 and 15.03.2019 & dated 08.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No.2382 of 2020, impugned order dated 22.01.2019 & dated 14.11.2019 passed by the District Supply Officer and Appellate Authority in Writ C No. 5595 of 2020, impugned order dated 05.03.2019 & dated 24.02.2019 passed by the District Supply Officer and Appellate Authority in Writ C No.21467 of 2020 impugned order dated 05.03.2019 & dated 24.02.2020 passed by the District Supply Officer and Appellate Authority in Writ C No. 21533 of 2020, impugned order dated 01.04.2019 & dated 24.02.2020 passed by the District Supply Officer and Appellate Authority in Writ C No. 22154 of 2020, impugned order dated 08.01.2019 & dated 07.09.2022 and 05.03.2020 passed by the District Supply Officer and Appellate Authority in Writ C No. 17812 of 2020 are liable to be set aside and the same are hereby set aside.

36. All the writ petitions are allowed and the concerned-respondents are directed to restore the fair price shop licence of the petitioners forthwith.

(2025) 6 ILRA 183

ORIGINAL JURISDICTION

CIVIL SIDE

DATED: LUCKNOW 03.06.2025

BEFORE

THE HON'BLE RAJAN ROY, J.
THE HON'BLE OM PRAKASH SHUKLA, J.

Writ Tax No. 30 of 2025
With

Writ Tax No. 31 of 2025

Pramod Swarup Agarwal ...Revisionist
Versus
Prin. Director of Income Tax (Inv.) Lko & Ors. ...Opp. Parties

Counsel for the Revisionist:

Anupam Mishra, Shalabh Singh

Counsel for the Opp. Parties:

Neerav Chitravanshi, A.S.G.I., Dr. Ravi Kumar Mishra

A. Taxation Law- The Constitution of India, 1950-Article 226 - The Income Tax Act, 1961-Sections 131(1A) & 132---Writ petition challenging warrant of authorization and the validity of search proceedings conducted at the premise of the petitioners as well as notice issued U/S 131(1A) of the Act--- In order to initiate any action section 132, first of all, there has to be information in possession of the officers referred thereunder. Secondly, such officers should have reason to believe as a consequence of such information and based thereon. Thirdly, this information and reason to believe should have a relation with any of the three clauses (a), (b) or (c) contained therein, otherwise such exercise would be bad in law.

B. The information and reason to believe has to be related/ referable to clause (b) aforesaid and should have a rational connection with the said clause (b) and if it is not then it can be a ground for interference under Article 226 of the Constitution of India because then it would be a case of absence of such information/ reason to believe in the context of said clause (b) of sub-Section (1) of Section 132 and would lead to a conclusion that it is an arbitrary exercise of power, without application of mind to the provisions of law and legal requirements contained therein.

C. The jurisdictional prerequisites for exercise of power under Section 132 are / were woefully absent in this case and consequently entire search operations based on such satisfaction note and warrant of authorization are illegal--- The authorised officer does not have any power to issue notices under section 131(1A) post-