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Date : 24/08/2025

Hanuman Prasad Verma S/O Swami Dayal Verma Vs State of U.P.Through Food & Cv.Supplies & Others

Court: Allahabad High Court (Lucknow Bench)

Date of Decision: Dec. 5, 2008

Hon'ble Judges: Pradeep Kant, J and Shabihul Hasnain, J

Final Decision: Disposed Of

Judgement

Shabihul Hasnain, J.

Heard the learned counsel for the petitioner Ram Prakash Singh and Sri Navneet Agarwal for the respondentState.

With the consent of the parties'' counsel, the petition is being disposed of finally at the admission stage.

It is the specific case of the petitioner that his agreement has not been cancelled nor has been suspended and merely on a complaint made by some

persons, the Sub Divisional Magistrate has directed that he should not be allowed to lift the food grains and kerosene oil.

Submission is that the Sub Divisional Magistrate does not have any such power.

Learned counsel for the State could not justify the action of the Sub Divisional Magistrate.

In case any complaint is made against the sitting fair price shop dealer, it need be inquired into if the Sub Divisional Magistrate is satisfied that it

requires such consideration and raises a genuine grievance and if the Sub Divisional Magistrate is satisfied that action for cancellation be initiated, it

will be the discretion of the Sub Divisional Magistrate to suspend the agreement and proceed in accordance with law, but merely on receipt of a

complaint, that too without suspending the agreement, the direction cannot be issued either for restoring the dealer to run the fair price shop or

directing for non issuance of the food grains.

The order aforesaid is apparently without jurisdiction, which is hereby quashed.

This order will not come in the way of the respondents in taking appropriate proceedings against the petitioner, if the Sub Divisional Magistrate

found that the complaint requires any consideration.

The writ petition is disposed of finally accordingly.