

In The Court of Commissioner, Saran Division, Chapra
Supply Revision No. 279/2014
Sanjeev Kumar Sharma
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned cancellation of PDS licence passed by SDO, Maharajganj vide order contained in memo No. 395/Supply dt. 25.06.2007.

The brief facts of the case are that the petitioner Sanjeev Kumar Sharma R/o Vill-Shirshaw, P.S.-Daraudha, Dist-Siwan was a PDS licensee and was holding licence No. 422/85. Further case is that BSO, Daraudha inspected the PDS shop of the petitioner on 23.12.2005 and in course of inspection some consumers stated that petitioner used to distribution of food grains and k.oil irregularly to the consumers. Thereafter, the SDO, Maharajganj acting on the said report submitted against the petitioner, issued a show cause notice to the petitioner vide memo No. 168/c dt. 24.12.2005 and also suspended the PDS licence of petitioner. The petitioner in compliance to the said show cause notice filed a detailed reply alongwith supporting documents to controvert the said alleged charges. This led to asking of opinion of the BSO, Daraudha by the SDO, Maharajganj on the said show cause reply. As no opinion was received from BSO, Daraudha, the SDO, finally decided to send his recommendation to the District Level Selection Committee headed by D.M. Siwan for revocation of the suspend licence of the petitioner vide memo No. 881 dt. 12.06.2006. But later on DSO, Siwan vide his memo No. 115/Supply dt.02.02.2007 informed the SDO, Maharajganj to cancel the said licence and ultimately, the SDO, decided to cancel the said licence and he cancelled the licence vide memo No. 395/Supply dt. 25.06.2007. This led to filing of the instant revision petition before this Court as per the provision contained in PDS (control) order 2006.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner at the very outset of his argument submitted that the impugned order is illegal, arbitrary and against the rules existing earlier. He further submitted that the learned SDO, on being satisfied with the show cause reply submitted by the petitioner, ultimately decided to recommended for revocation of suspension of PDS licence on 30.05.2006. He further submitted that it is surprising that the same SDO, Maharajganj, after receiving a letter from DSO, Siwan cancelled the licence as per instruction contained in the said letter. The learned counsel further strongly submitted that it is the licencing authority, who is exclusively vested with the power of granting and cancelling the licence and he has to take decision by himself and not on behalf of the superior officer. He also argued that after considering all aspects, the SDO, had earlier recommended for revocation of suspension of licence but his subsequent action of cancelling the same is entirely based on the dictate of superior officer, the D.M. Siwan as such the impugned cancellation order has no legal validity. He also relied upon a reported judgment of Hon'ble High Court (2009(3) PLJR-page-513) wherein it has been held that District Level Selection Committee has got no jurisdiction to direct the licencing authority to cancel the licence. The learned counsel further submitted that according to Govt. Notification of 2007, the PDS licence can not remain suspended for more than 90 days but in this case the petitioner's licence remained suspended for more than two year and later on it was cancelled thereby imposing double punishment. The learned counsel lastly said that since the impugned order suffers from the vice of arbitrariness and illegal also the same is fit to be set aside and this revision petition be allowed.


The learned Spl. P.P. on the other hand, supported the impugned order and asserted that this revision petition being devoid of any merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on record, pleadings advanced by the learned counsel for the petitioner and case law relied upon, it appears to me that the allegation levelled against the petitioner prima-facie appear to be violative of PDS control order. However, it is clear that the SDO, the licencing authority has passed the cancellation order of PDS licence of the petitioner on the direction of the District Level Selection Committee, communicated to him by DSO, Siwan, rather than applying his own mind. This approach has been criticized and consequently such orders also have been set aside by the Hon'ble High Court in several case s in the past.

Hence the impugned order of SDO. Maharajganj as contained in memo No. 395/Supply dt. 25.06.2007 is set aside.

In the result this revision petition is allowed.

Dictated and Corrected by me.


Commissioner 9.10.19
Saran Division, Chapra.


Commissioner 9.10.19
Saran Division, Chapra.