

**In The Court of Commissioner, Saran Division, Chapra**  
**Supply Revision No. 127/2017**  
**Most. Durgawati Kuwar**  
**Vrs.**  
**The State of Bihar**  
**ORDER**

The instant revision application is directed against the impugned order passed by the District Magistrate, Saran in Supply Appeal No. 33/2016 on 08.06.2017.

The brief facts of the case are that the petitioner Most. Durgawati Kuwar W/o Late Hira Lal Rai, R/o Vill-Phuchti Kala, P.S.-Ekma, Dist-Saran was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected on 07.06.2016 by BSO, Ekma. In course of inspection certain irregularities were reportedly found for which a report vide letter No. 101 dt. 07.06.2016 was sent to the SDO, Chapra Sadar. In the said report it was mentioned that the said dealer's distribution of ration and k.oil was not fair and regular and he used to give less quantity than the prescribed quantity to the consumers and also in habit of charging excess price. In the said report it was also mentioned that certain consumers like Kalawati Devi, Laxman Kumar, Lalita Devi, Meena Devi, Sushila Devi, Khumati Devi and Fulmati Kuwar have also got their statement recorded about the alleged irregularities committed by the dealer. Thereafter, the SDO, Chapra Sadar vide memo No. 569 dt. 15.06.2016 asked show cause from the dealer for the aforementioned irregularities. In compliance to the said show cause notice, the petitioner filed her show cause reply denying all the alleged charges, but the learned SDO, on finding the said show cause reply to be unsatisfactory and holding the petitioner as guilty for violating the terms and conditions of PDS (control) order-2016, cancelled the said licence and accordingly communicated the same to the petitioner vide memo No. 1024 dt. 19.09.2016. Feeling aggrieved by the said cancellation of licence, the petitioner preferred on appeal case vide Supply Appeal No. 33/2016 before D.M. Saran which was subsequently dismissed vide order dt. 08.06.2017. On being aggrieved by and dissatisfied with the aforesaid order passed by D.M. Saran, the petitioner preferred the instant revision case before this Court.

Heard the learned counsel for the petitioner and learned Spl. P.P. for the State.

The learned counsel appearing on behalf of the petitioner submitted that the impugned cancellation order passed by SDO, Chapra Sadar as well as the appellate order of D.M. Saran is illegal and bad in law for the reason that neither show cause reply filed by the petitioner was considered by the learned SDO nor the appellate court of D.M. considered the same. He further argued that the appellate authority ought to have considered the affidavit filed by the persons with respect to categorical denial of having giving any statement regarding irregularities in distribution by the dealer but the said affidavits were not taken into consideration either by SDO or D.M. The learned counsel further submitted that since the statement of the person was taken to be true by the inspecting officer and the same became also the cause for cancellation of licence, in that situation the real facts should have been considered, without any prejudice on the basis of affidavits sworn by the persons. He also submitted that the learned D.M. did not record any observation in his order on the said affidavits. He further argued that all the allegations levelled against the petitioner like, irregular distribution of food grains and k.oil and of conducting the business by his teacher son are false and fabricated and the same have been made due to village politics arose at the time of panchayat election as the petitioner refused to act as per desire of the local people. He also stated that in order to take revenge,

they managed some illiterate ladies for making false statements before the inquiry officer. The learned counsel also submitted that the shop of the petitioner was closed mainly due to reason that the petitioner had gone in the house of his Patidar to attend in a ceremony and even no commodities were available in his stock on the day of inspection. He also submitted that closing of PDS shop for a day is not a grave offence as held by the Hon'ble High Court and for such offence normally PDS licence should not have been cancelled. The learned counsel lastly said that as both the authorities, the licencing authority and appellate authority, failed to consider the material facts of the case properly, the said orders are legally not sustainable and fit to be set aside in the interest of justice and this revision petition is fit to be allowed.


The learned Spl. P.P. on the other hand, strongly supported the impugned order and said that the same is reasoned, legal and valid having no scope for interference.

Considering the facts and circumstances of the case, material available on records, averments made by the learned counsel for the petitioner and on perusal of the impugned order, it is seen that the petitioner's PDS licence has been cancelled for the alleged irregularities as reported by the inspecting officer. The learned counsel for the petitioner is of the view that all the allegations regarding irregularities in distribution of food grains and k.oil have been levelled against the petitioner due to village politics. His other contention was that some illiterate ladies were managed for making statements before the inquiry officer just to settle score with the dealer after panchayat elections. The learned counsel also pleaded that all those ladies whose statements before inquiry officer was taken to be true was subsequently becomes infructuous and worthless on the basis of denial of the same through affidavits. I find some merit in the above view of the learned counsel for the reason that once the persons whose statements are taken as evidence and subsequently they denied the same through affidavits, the same must have been considered by the authorities without any prejudice to arrive at the correct findings of fact. By not considering the same, it appears that the authorities concerned have not taken the same as reliable documentary evidence. Apart from that the allegation of closure of shop is also not a serious guilt for which the PDS licence warrants cancellation as opined by the learned counsel and in support of that he placed reliance the judgment of Hon'ble High Court. It is seen that the petitioner's shop was closed for some genuine cause as the petitioner had to attend a ceremony of her close relative. Thus, it appears that the learned SDO as well as learned D.M. have not considered the factual matrix of the case appropriately. For that, the cancellation order of SDO, Chapra Sadar as well as of D.M. Saran seems to be arbitrary and illogical and as such the same can not be upheld.

For the aforementioned reasons, the impugned order of SDO, Chapra Sadar as contained in memo No. 1024 dt. 19.09.2016 and of D.M. Saran dt. 08.06.2017 are set aside.

In the result this revision petition is allowed.

Dictated and Corrected by me.

  
30.10.19  
Commissioner  
Saran Division, Chapra.

  
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Saran Division, Chapra.