

In The Court of Commissioner, Saran Division, Chapra
Supply Revision No. 211/2018
Birendra Kumar
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Saran in Supply Appeal case no. 61/2017 on 30.07.2018.

The brief facts of the case are that Birendra Kumar S/o Late Ram Pravesh Ray, R/o Vill-Sarai Saho, Gram Panchayat-Saidpur, Dist-Saran was a PDS licence holder. Further case is that the PDS shop of the petitioner was inspected on 11.05.2017 by District Level Inspecting Team headed by Sri Upendra Kumar Pal, DCLR Sonpur. In course of inspection certain irregularities were found like: the shop was found closed during the stipulated period and the dealer was found absent as told by son of the dealer, the son of dealer failed to produce the relevant registers for inspection even on demand as such the registers could not be inspected, inspecting team was not assisted in inspection work and some consumers like Nisha Narayan Pandit, Geeta Devi and some other stated that the dealer has not given any food grains to them after February 2017 and even the food grains meant for the month of March and April 2017 has not been supplied. Thereafter, the inspecting team sent a report to the SDO, Sonpur for the abovementioned irregularities found during inspection. The learned SDO taking cognisance on the said report asked show cause from the petitioner for the reported irregularities vide memo No. 247 dt. 29.05.2017. In compliance to the said show cause notice, the petitioner filed his show cause reply refuting all the allegations but the learned SDO on findings the said show cause reply to be unsatisfactory, finally vide order contained in memo No. 727 dated 01.08.2017 cancelled the PDS licence of the petitioner. Feeling aggrieved by the said order, the petitioner preferred an appeal vide Supply Appeal case No. 61/2017 before D.M. Saran. The learned D.M. Saran after hearing the case finally vide order dt. 30.07.2018 dismissed the same leading the coming up his case before this Court under its revisional jurisdiction.

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

On being aggrieved by and dissatisfied with the aforesaid order of dismissal of appeal case, the petitioner has preferred the instant revision case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner at the very beginning of his argument submitted that the impugned order of cancellation of PDS licence by learned SDO, Sonpur as well as the appellate order of D.M. Saran is illegal, bad and against the provisions of law. He further said that the learned SDO cancelled the licence without hearing on the show cause reply filed by the petitioner with a nonspeaking order as nothing has been mentioned by him as to whether the show cause reply was acceptable or not. The learned counsel also argued that all the allegations levelled against the petitioner was mainly due to political enmity and the fact is that the petitioner has not violated any terms and conditions of licence. He also said that the shop of the petitioner was closed on the day of inspection as the petitioner had gone for his treatment and even the prescription filed in support of such claim was not considered by the appellate Court and the shop was not kept closed deliberately. The


learned counsel further placed reliance on a reported judgment of Hon'ble High Court in support of his plea that the closure of shop for a day is not a ground for cancellation of licence. The learned counsel lastly said that the impugned order of D.M. Saran is fit to be quashed and this revision petition be allowed.

The learned Spl. P.P. on the other hand, strongly supported the impugned order of D.M. Saran by saying that the said order is just, proper and valid and having no scope of interference by this Court.

Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that the petitioner's PDS licence has been cancelled by the licencing authority the SDO, Marhaurah for some irregularities reported by the district level inspecting team and for that the petitioner has been held for violating the terms and conditions of the PDS licence. It is also seen that the learned D.M. acting as the appellate authority, upheld the order of SDO and felt no need of any interference in the said order. The learned counsel for the petitioner is of the view that the show cause reply filed by the petitioner and the copies of various documents produced with respect to contradicting the allegation have not been considered at all by the licencing authority and the appellate Court without applying its own mind simply upheld the impugned cancellation order which is legally unjustified. I do not find much substance in the said contention of the learned counsel in view of the fact that if the petitioner had to meet his engagement, he should have informed the concerned authority in advance so as to avoid any charges of intentionally closing the shop. The petitioner has failed to do so. The learned counsel further assailed the impugned order of D.M. by saying that the same is mechanical order where no judicial mind has been applied. I do not find any substance in the said plea of the petitioner. In fact, the learned D.M. after making careful assessment of all the relevant facts of the case finally arrived at the conclusion that the impugned cancellation order of the SDO is justified. On the other hand, the learned counsel for the petitioner has failed to point out any specific illegality or aberration in the impugned order of D.M. Saran so as to enable this Court to make any interference in the said order.

For the abovementioned reason, the impugned order is upheld and this revision petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


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