

In The Court of Commissioner, Saran Division, Chapra
Supply Revision No. 72/2018
Chandeshwar Das

Vrs.

The District Magistrate, Saran & ors.

ORDER

The instant revision petition is directed against the impugned order passed by D.M. Saran in Supply Appeal No. 33/2015 on 13.03.2018.

The brief facts of the case are that the present petitioner Chandeshwar Das S/o Narayan Das R/o Vill-Parsa Pojhi, Gram Panchayat-Chandrapura, P.S.-Parsa, Dist-Saran was a PDS licensee. Further case is that BSO, Parsa got a confidential information on 23.05.2015 that Vijay Singh S/o Sakaldeo Singh and Fatkan Rai S/o Late Ashrafi Rai, both resident of village Gangoi, P.S.-Bheldi have kept food grains of State Food Corporation for black marketing of the same. Thereafter, C.O. Parsa and O.C., Bheldi conducted raid in both the houses and found 8 bags wheat and 13 bag rice in the house of Vijay Singh and 8 bag wheat and 12 bag rice from the house of Fatkan Rai and in course of inquiry both persons stated that the said grains was of Chandeshwar Das, the PDS dealer but he failed to produce any paper etc. This led to lodging of a case under the provision of EC. Act vide Bheldi P.S. case No. 79/15 dt. 23.05.15 against all the concerned persons including the present petitioner for the allegation that the food grains of SFC was kept by them for black marketing. Thereafter, the licencing authority, the SDO, Chapra Sadar asked show cause from the petitioner and later on finding the show cause reply submitted by the petitioner to be unsatisfactory and held the petitioner as guilty for storing the food grains to other places without obtaining any prior permission of the authority, solely with a purpose of black marketing of the same. The licencing authority finally vide order contained in memo No. 985 dt. 25.07.2015 cancelled the said licence. Feeling aggrieved by the said cancellation order the petitioner preferred an appeal vide Supply appeal No. 33/15 in the Court of D.M. Saran which was subsequently dismissed vide order dt. 13.03.2018.

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

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

The learned counsel for the petitioner submitted at the very outset of his argument, that the petitioner's licence has been cancelled by the licencing authority without giving any opportunity of hearing to the petitioner and even no reasons have been recorded as to why and how the show cause reply filed by the petitioner was unsatisfactory as such the cancellation order is illegal. He further argued that not a single consumer has alleged about any irregularities in distribution of food grains by the petitioner. The learned counsel further submitted that the PDS dealer has kept the food grains in the house of said two persons only on the demand of consumers, Mukhiya of the said panchayat and member, Zila Prasad with a view to a place meant for suitable distribution of the grains amongst the consumers. He also submitted that the petitioner has been made victim of the political conspiracy. The learned counsel also submitted that the petitioner alongwith other two persons have been acquitted in Criminal trial, arising out of Bheldi P.S. case No. 79/15 by SDJM Chapra on 18.10.2017 and a copy of the same is also available on record. It is further submitted by the learned counsel that the petitioner has never violated any terms and conditions of PDS licence. He also submitted

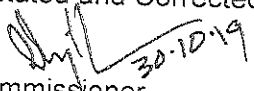
that all these points were raised before the learned D.M. but he did not consider the same. The learned counsel also drew the attention of this Court towards the provision that once the licencee is acquitted from a criminal proceeding by a competent Court for the alleged charges of black marketing his licence is restored. But in this case no action has been taken by the learned SDO and D.M. He lastly said that in view of the apparent illegality in the impugned orders, the same are fit to be set aside and this revision case be allowed.

The learned Spl. P.P. appearing on behalf of D.M. Saran vehemently opposed the arguments forwarded by the learned counsel for the petitioner and submitted that the same is legally valid and fit to be upheld.

Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsels and on perusal of the impugned order, it is seen that the petitioner's licence has been cancelled on the alleged charge of keeping the food grains in the house of other person with an intention of black marketing and for which a case vide Bheldi P.S. case No. 79/2015 dt. 23.05.15 was registered. It is also seen that the petitioner has been acquitted by the competent Court for the said charges for which he was made an accused in the said case mainly on the ground that the prosecution failed to establish the charges during trial. It is also seen that the acquittal order of the petitioner has been passed on 18.10.17. during the pendency of the appeal before D.M. The appeal has been dismissed vide order dt. 13.03.2018. It is seen from the lower Court record that through the copy of acquittal order was available on record, the learned D.M. did not give any weight as evidence to that before passing the final order. The learned D.M. ought to have considered the same. In the changed situation any further action in the matter can only be initiated by the licencing authority, the SDO, Chapra Sadar. Since the impugned order and its existence may cause obstruction for initiating further proceeding in the matter at the level of licencing authority, the impugned order of D.M. is set aside and the case is remitted back to D.M., Saran to proceed further in accordance with law.

With the aforesaid observation and direction, the instant revision petition is disposed of.

Dictated and Corrected by me.


30.10.19
Commissioner
Saran Division, Chapra.


30.10.19
Commissioner
Saran Division, Chapra.