

In The Court of Commissioner, Saran Division, Chapra

Supply Revision No. 18/2018

Bashishtha Prasad Singh

Vrs.

The State of Bihar

ORDER

The instant revision petition is directed against the impugned order passed by D.M. Siwan in Supply Appeal case No. 170/16-17 on 19.12.2017.

The brief facts of the case are that the petitioner Bashishtha Narayan Singh @ Bashishtha Prasad Singh R/o Gram Panchayat Raj Jagatpur, Block-Lakdinabiganj, Dist-Siwan was a PDS licence holder. Further case is that the PDS shop of the petitioner was inspected on 30.11.2016 by a District Level inspecting team on the order of D.M. Siwan. In Course of inspection following irregularities were reportedly found like; shop was closed, non production of stock and distribution register and not issuing cash memos to the consumers. Thereafter, the licencing authority-cum-SDO, Maharajganj issued a show cause notice to the petitioner vide memo No. 742/Supply dt. 21.12.2016 to file show cause reply within one week for the aforementioned irregularities. Due to non submission of show cause reply within the stipulated period a second show cause notice issued to the petitioner vide memo No. 48 dt. 27.01.2017 by the SDO, Maharajganj. Again the petitioner failed to file any show cause reply. Thereafter, the learned SDO, on finding that the petitioner has nothing to say in his defence held him guilty for violating the terms and conditions of PDS licence and finally vide order dt. 31.01.2017 cancelled the said PDS licence. Feeling aggrieved by the said order, the petitioner preferred an appeal vide Supply Appeal No. 170/2016-17 before D.M. Siwan. The learned D.M. after hearing the case finally vide order dt. 19.12.2017 dismissed the said appeal resulting in coming of this case before this Court.

Heard the learned counsel for the parties.

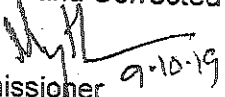
The learned counsel appearing on behalf of the petitioner termed the cancellation order passed by learned SDO as bad in law and facts both. He further argued that neither opportunity of hearing to the petitioner nor the substance of allegation were provided to the petitioner thereby principle of natural justice has been violated. He also submitted that the inquiry team never reached at the shop of the petitioner and even no show cause notice was served to the petitioner but his licence has been cancelled. The learned counsel also submitted that the lower Court ought to have considered that neither any consumer nor any other concerned official has ever made any complaint against the petitioner and this petitioner used to left the food grains regularly and distributed the same also. The learned counsel further submitted that the impugned order of cancellation of licence has been passed by the authority without adhering to the settled principle of law as neither the copy of inquiry report nor show cause notice served upon him. He lastly submitted that as the impugned order is arbitrary, the same is fit to be set aside.


The learned Spl. P.P. appearing on behalf of the D.M. Siwan on the other hand strongly submitted as the petitioner failed to file any show cause reply, the cancellation of his licence is just and proper in view of reported irregularities found during inspection. He further submitted that the impugned order of D.M. is just, valid and proper having no scope of interference.

Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the parties and on perusal of the impugned cancellation order of SDO as well as of D.M. Siwan, it appears that two show cause notice have been issued to the petitioner for the alleged irregularities found by inspecting team but he failed to file any reply thereto. The learned counsel for the petitioner laid maximum stress on the point that no show cause notice was served to the petitioner and thereby cancellation of licence is against the settled principle of law. There is hardly any truth in the said argument of learned counsel in view of the fact that the first notice issued to the petitioner on 21.12.16 was received by the petitioner himself on 04.01.2017 and he put his signature also. Similarly, the second notice dt. 27.01.2017 was received by Pawan Singh son of the petitioner on 28.01.2017. The copies of said notices available on records speaks loudly that the petitioner after receiving the said notices did not file any show cause reply. Obviously, such a defiant attitude of the petitioner can not be taken lightly and for such action he can not deserve any lenient view in his case from the licencing authority. As such the impugned cancellation order of SDO and impugned order of D.M. Siwan upholding the cancellation order, are just and valid. I do not find any good ground to make any interference in the impugned order.

Accordingly, the impugned order is upheld and this revision petition being devoid of any merit is dismissed.

Dictated and Corrected by me.


Commissioner 9.10.19
Saran Division, Chapra.


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