

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 47/2017
Shailendra Kumar Bharti
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. 84/2015-16 on 21.03.2017 whereby and whereunder the appeal was dismissed on the ground that the said appeal petition was legally and technically not admissible.

The brief facts of the case are that the petitioner Shailendra Kumar Bharti was a PDS dealer whose PDS licence No. 100/2010 was cancelled by SDO, Maharajganj vide order dt. 30.06.14 pursuant to a case u/s 7, E.C. Act was registered against him vide Maharajganj P.S. case No. 177/14 dt. 28.08.2014. Against the said cancellation order an appeal case bearing Supply Appeal case No. 84/2015-16 was filed on 08.02.2016 before D.M. Siwan. The matter was taken up on 21.03.2017 and the learned D.M. Siwan on finding that the cancellation order has been passed in the year 2014 against which the appeal was filed on 08.02.2016, he held that the said appeal petition was not legally and technically admissible resulting in the dismissal of the said appeal case. Feeling aggrieved by the said order, 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 outset of his arguments submitted in detail about the whole course of events leading to coming of this case before this court. He further submitted that the petitioner's appeal petition has been dismissed only on the point of delay in preferring the appeal without considering the merit of the case. He also submitted that the petitioner deserves that his appeal petition should be disposed of on merit as the delay caused in preferring the appeal was not done deliberately rather the same was caused due to some unavoidable circumstances. He lastly submitted that the impugned order is legally not valid and needs to be set aside so that justice may be meted to the petitioner.

The learned Spl. P.P. opposed the submission of the learned counsel for the petitioner and said that as the petitioner had filed appeal after a delay of about two years his case has rightly been dismissed and he can not seek relief from this Court against the said order.

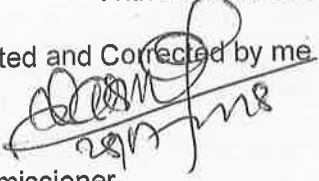
Having regards to the facts and circumstances of the case, submission made by the learned counsel for the parties and on perusal of the impugned order, it is seen that the petitioner's appeal petition has been dismissed on the point of inordinate delay caused in preferring the appeal. The sole contention of the learned counsel for the petitioner is that as the case of the petitioner has been dismissed on the ground of delay but such delay was not caused deliberately, the learned D.M. Siwan ought to have considered the case of the petitioner on merit. I find some merit in the said plea of the petitioner for the reason that a delay of three months should not be a ground for dismissing the appeal petition in such a situation when delay caused has been explained reasonably through limitation petition. In fact, the learned D.M.

ought to have condoned the delay and dispose of the appeal on merit thereby giving justice to the petitioner.

For the reason stated above, the impugned order of D.M. Siwan dt. 10.02.2017 is set aside and the case is remitted back to dispose of the same on merit in accordance with law after condoning the delay.

With the aforesaid observations and directions, this revision petition is disposed of.

Dictated and Corrected by me


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.