

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 113/2017
Dinesh Singh
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Saran in Supply Appeal no. 12/2016-16 on 23.06.2017.

The brief facts of the case are that the petitioner Dinesh Singh S/o Late Ram Dayal Singh R/o Vill-Rameshwar Tola, Sitabdiara, P.S.-Rivilganj, Dist-Saran was a PDS dealer. Further case is that the petitioner's PDS shop was inspected on 25.07.14 by Kumar Omkeshwar, SDC, Saran pursuant to a complaint petition filed by Subash Kumar Singh and 23 others. In course of inspection following irregularities were found like: there should be only 12 kg wheat and 90 kg of rice be found in the shop after distribution of food grains of May, June 2014 but actually 90 kg of wheat and 90 kg of rice were found which reflects that the dealer did not use to distribute the grains in prescribed quantity amongst the consumers. Besides this some consumers alleged that by giving one month ration, two months entry was made in the ration card. Furthermore some consumers alleged that the shop does not open regularly during the scheduled time and food grains are not distributed regularly. The said inspection report was submitted to the SDO, Chapra Sadar who in turn vide memo No. 378 dt. 23.08.2014 asked show cause from the petitioner for the above reported irregularities. In compliance to the said show cause notice, the petitioner filed his show cause reply denying the allegations but the SDO on finding the said show cause reply to be unsatisfactory, cancelled the petitioner's licence vide order contained in memo No. 118 dt. 27.01.2015. Feeling aggrieved by the said order, the petitioner preferred an appeal case vide Supply Appeal No. 12/2015 before D.M. Saran. Thereafter, the learned D.M. Saran after hearing the case finally vide order dt. 23.06.2017 dismissed the said appeal case which led to filing of this revision case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner while assailing the impugned order submitted that the same is based on presumption and surmises. He further submitted that the learned lower Court has committed several errors by not appreciating the settled principles of law and wrongly jumped on the conclusion on the baseless grounds. He further argued that learned Court below committed serious error by not considering and appreciating the general mass representation filed with signature of 132 persons, showing that they have no complaint against the dealer and it was also prayed by them that the cancelled licence of the petitioner be restored. He also strongly submitted that the learned Court below committed error by not appreciating the fact that the persons whose statements was said to be recorded at the time of inspection were not actually tagged with the petitioner's shop. He also submitted that even the alleged statement made by the consumers were not supplied to the petitioner alongwith show cause notice so that the petitioner can file effective reply. The learned counsel further referred to a reported judgment in which it has been held that non disclosing the name of the persons and their alleged statements to the petitioner alongwith show cause notice, the entire exercise becomes vitiated in law. He lastly said that the learned D.M. without

considering these facts passed the impugned order in a mechanical way and in haste and as such the impugned order is fit to be set aside.

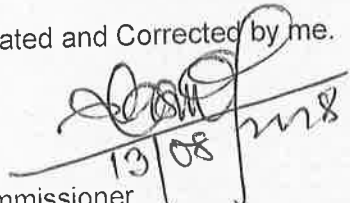
The learned Spl. P.P. in his written statements mentioned that as the petitioner was involved in violating the terms and conditions of PDS licence by not supplying the items regularly and in prescribed quantity the action of cancellation of his licence is justified and the appellate order is cogent, reasoned and proper having no infirmity.

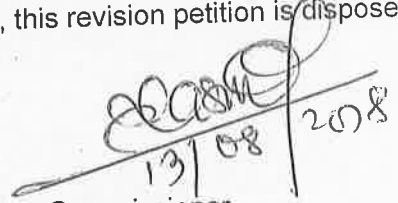
Considering the facts and circumstances of the case, material available on records, arguments made by the learned counsel for the parties and on perusal of the impugned order it is seen that the petitioner's licence has been cancelled for the alleged charges of violating the terms and conditions of PDS licence by not supplying the grains to the consumes in prescribed quantity and on prescribed price and also of distributing the same irregularly. The plea of the petitioner is that he has not been served with the copy of inquiry report alongwith show cause notice so that he could not formulate effective defence in his show cause reply. This plea of the petitioner seems to be true from the lower Court record of SDO, Chapra Sadar in view of the fact that nothing has been mentioned in the said show cause notice as to whether the inquiry report was annexed thereto or not. However, this does not dilute the allegations of commission of gross irregularities in distribution of food grains to the consumers. And on this lapse alone, the petitioner does not deserve any lenient view. I find that the learned D.M. has discussed in detail about the allegations and also recorded reasons for upholding the impugned cancellation of licence of the petitioner. But it is also seen that he has not recorded his findings on this specific plea of the petitioner with respect to non supply of inquiry report. This lapse on the part of the appellate authority, makes the impugned order arbitrary and erroneous. This Court feels that obviously substantial justice has not been done in the instant case at the appellate stage.

For the aforementioned reasons, the impugned order of D.M. Saran is not sustainable as such the same is set aside. The case is remitted back to the D.M. Saran for fresh consideration and to pass a fresh order in accordance with law.

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

Dictated and Corrected by me.


13/08/08
Commissioner
Saran Division, Chapra.


13/08/08
Commissioner
Saran Division, Chapra.