

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 23/2016
Sri Ram Prasad Manjhi
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Siwan in Supply Appeal No. 150/2013-14 on 05.01.2016.

The brief facts of the case are that the petitioner Sri Ram Prasad Manjhi R/o Gram Panchayat Raj Chowki Hasan, Block-Barharia, Dist-Siwan was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected on 30.10.2013 jointly by DSO, Siwan and Barharia. In course of inspection following irregularities were found like:

1. It was found from the perusal of the distribution register of k.oil that in between month of January 2013 to August 2013, k.oil was lifted for 395-402 consumers but the same was distributed only amongst 334 to 356 consumers.
2. Antodaya food grains register show that on 24.10.2013, 5.60 quintal wheat and 8.40 quintal rice were lifted but till 27.10.2013 the same was distributed and stock was found zero but out of 40 coupons only 37 coupons were found.
3. On inspection of BPL stock register it was found that on 24.10.13, 21.40 quintal wheat and 32.10 quintal rice were lifted and the zero prior to lifting of grains but only 181 coupons were found 16 less in number.
4. Some consumers like Jaladuddin Ansari alleged that BPL food grains were not distributed by the dealer during Feb. To April-2013 and other 10-12 consumers alleged that less quantity of grains supplied on charging higher prices.

Thereafter, the said inquiry report was sent to the SDO, who in turn vide memo No. 3572 dt. 21.11.2013 asked show cause from the petitioner. But the petitioner did not file his show cause reply. Then the SDO, holding the petitioner to be guilty for depriving the 30-40 consumers of their food grains, he cancelled the said PDS licence of the petitioner vide order contained in memo No. 53 dt. 22.01.2014. Feeling aggrieved by the said order of SDO, Siwan the petitioner preferred an appeal case before D.M. Siwan, vide Supply Appeal case No. 150/2013-14 and the said appeal case was dismissed vide order dt. 05.01.2016. On being 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 argument submitted that the impugned order is improper and illegal as the same is based on conjectures and surmises. He further argued that the food grains of one month could not be distributed by the petitioner due to lack of money as he could not lift the same and several panchayat representatives had given in writing about the facts that the same was not done with any malafide intention. He also argued that the Court below ought to have considered the application given by consumers in which they have said that k.oil and food grains have been

distributed in by the dealer every month. The learned counsel also said that the petitioner could not submit his reply to the show cause notice as the same was not served to him in time and this fact ought to have been considered sympathetically by the Court below. The learned counsel lastly said that the learned D.M. also did not consider the various points raised before him and he simply upheld the order of SDO, which is legally not correct as such the present revision petition be allowed.

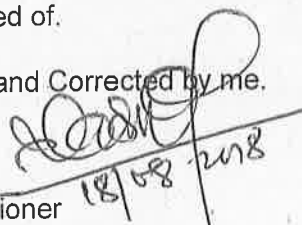
The learned Spl. P.P. appearing on behalf of the state, on the other hand submitted that the petitioner's licence has been cancelled for committing gross irregularities in distribution of food grains and k.oil to the consumers. He further said that the learned D.M. after carefully considering each and every aspects of the case properly arrived at his final findings of fact. There is no illegality in the impugned order as such the same is fit to be upheld and this revision petition lacking merit is fit to be dismissed.

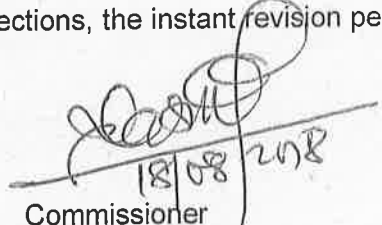
Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that certain irregularities have been found during inspection of the PDS shop of the petitioner. It is also on record that the petitioner did not file any show cause reply to the alleged charges reportedly found during inspection of his PDS shop. Obviously, this conduct of the petitioner can not be taken lightly for the reason that show cause reply might not have been submitted deliberately by the petitioner. However, the plea of the petitioner is that he has not been served with the show cause notice well before time and it was due to that reason, he could not furnish the show cause reply. This averments of the petitioner's counsel seems to be true to some extent in view of the fact that nothing is available on record to suggest that the petitioner had received the said show cause notice or had refused to receive the said notice. Thus, it appears that the petitioner has been denied of the opportunity of defence for the allegations and the said allegations ultimately led to cancellation of his licence. In fact, requirement of natural justice has not been met in the instant case. The learned D.M. ought to have considered this point without any prejudice so that substantial justice should have been done in the case.

For the aforementioned reasons, the impugned order of D.M. Siwan is not sustainable and hence the same is set aside and the case is remitted back to D.M. Siwan for reconsideration and to pass a fresh and speaking order in accordance with law after hearing the parties.

With the aforementioned observations and directions, the instant revision petition is disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


18/08/2018
Commissioner
Saran Division, Chapra.