

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 75/16
Raj Kumar Ram
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. 10/2012 on 07.01.2016.

The brief facts of the case are that Raj Kumar Ram S/o Krisha Nath Ram R/o Vill-Hasanpir, P.S.-Marhaurah, Dist-Saran was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected on 10.11.2011 by SDO Marhaurah. In course of inspection following irregularities were found like; the shop was found closed and the dealer was absent, notice board and price list were not displayed, stock and distribution registers were not verified, other family member did not show the stored grains and 19 bags each of rice and wheat were found stocked in veramdah. Thereafter, the SDO, served a show cause notice to the petitioner vide memo No. 2079, dt. 10.11.2011 directing the petitioner to file his show cause reply in person for the above mentioned irregularities. In compliance to the said show cause notice, the petitioner appeared alongwith his advocate before the SDO, Marhaurah on 19.11.2011 and submitted his show cause reply in which he denied all the charges mentioned in the show cause notice and also prayed that he be exempted from the said charges. The learned SDO, after considering the show cause reply filed by the petitioner and finally vide a detailed order came to the conclusion that the petitioner was guilty for violating the terms and conditions of PDS (control) order 2001 and accordingly the PDS licence of the petitioner was cancelled. The said cancellation order was communicated to the petitioner vide memo No. 2228 dt. 28.11.2011. Feeling aggrieved by the said order, the petitioner preferred an appeal case before D.M. Saran vide Supply Appeal No. 10/2012 which was subsequently dismissed vide order dt. 07.01.2016.

On being aggrieved by and dissatisfied with the aforesaid order, the petitioner has preferred the instant revision.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner, while assailing the impugned order submitted that the impugned order is based on surmises and conjectures because the learned lower Court has not properly appreciated the facts of the case. He further argued that the learned lower Court ought to have held that the petitioner has not made any negligence in distributing the food grains which was made available to him for distribution. He also submitted that on the day of inspection the petitioner was present in the High school campus of Marhaurah in compliance to the instruction of SDO as such it was not possible for him to be present at the shop at the time of inspection. He also argued that although the petitioner had contradicted all the allegations levelled against him in his show cause reply but the same were not considered by the licencing authority. The learned counsel also submitted that the distribution zone of the petitioner covers about 9 K.M. area and some of the consumers came late to lift grains as such for that undistributed grains were not at his shop and no consumers ever made any complaint in this regard and the name such complaints were not disclosed in the show cause notice. He also submitted that the learned D.M. also did not consider the factual aspects of the case and without recording any reasons upheld the

impugned order of licencing authority. The learned counsel lastly prayed that as the petitioner belongs to S.C. community his PDS licence should not have been cancelled for minor offence of closure of shop. He further said that the impugned order of D.M. Saran is fit to be set aside and this revision application be allowed.

The learned Spl. P.P. appearing on behalf of the state, submitted that owing to serious irregularities found during the inspection of the PDS shop of the petitioner, his licence has been cancelled. The impugned order of D.M. Saran is cogent, reasoned and proper as such the same is fit to be upheld.

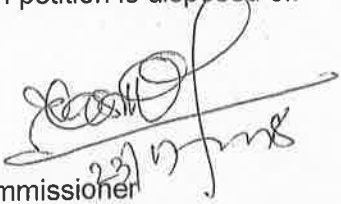
Considering the facts and circumstances of the case, material available on records, submission forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that the petitioner's PDS licence has been cancelled for some alleged charges of irregularities reportedly found during the inspection. It is seen from the record that the petitioner had explained the cause of his absent and closure of shop on the day of inspection but the same was not considered by the licencing authority. This plea of petitioner needs consideration in the light of stand taken by the petitioner that he was away after closing the meeting called by SDO. At least, this point should have been verified first by the licencing authority before rejecting the show cause reply of the petitioner. It is also seen that other allegations have also been explained suitably by the petitioner through documentary evidence but the same has also not been considered properly by the licencing authority as well as by the appellate authority. In fact both authorities have based their findings on extraneous consideration ignoring the relevant facts of the case. This makes the impugned order arbitrary and unsustainable.

For the reasons mentioned above, the impugned order is not sustainable and hence the same is set aside. The case is remitted back to D.M. Saran for fresh consideration and for passing a fresh order in accordance with law after affording opportunity of hearing also to the petitioner.

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

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.