

In The Court of Commissioner, Saran Division, Chapra

Supply Rev. No. 01/2017

Lilawati Devi

Vrs.

D.M. Gopalganj

ORDER

The instant revision application has been filed before this Court pursuant to the liberty granted by the Hon'ble High Court while disposing of CWJC No. 19206/2015 vide order dt. 17.11.2016. This revision petition is directed against the impugned order passed by D.M. Gopalganj in Supply Appeal No. 01/2015 on 11.09.2015.

The brief facts of the case are that the petitioner Lilawati Devi R/o Vill-Barkagaon, Gram Panchayat-Line Bazar, Block-Hathua, Dist-Gopalganj was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected by a joint inspecting team consisting of ADSO, Gopalganj and BSO, Kuchaikot on 27.09.2014 at 11.15 A.M. Thereafter, a report vide letter No. 735/Supply dt. 03.11.2014 was sent to the SDO, Hathua by DSO, Gopalganj. In the said report following irregularities were reportedly found during inspection like: the shop was found closed; only 100 bags of rice and 300 litre k.oil was found in the premises and 15 consumers contacted by the inspecting team alleged that irregularities were being committed by the dealer by not distributing the food grains regularly, charging of excess price and supplying food grains in less quantity. Then the SDO, Hathua vide memo No. 2183/c dt. 19.11.14 asked show cause for the petitioner for the above reported irregularities. In compliance to the said show cause notice, the petitioner filed her show cause reply stating there in that all the alleged charges were baseless. She had specifically mentioned in the reply that she had gone to offer prayer on the occasion of Navratri to a nearby temple by closing the shop but her husband was available there and he assisted the inspecting team. She further mentioned that no consumers were interrogated but actually the inspecting team by asking their name and card Nos. obtained their signature on blank paper and she also filed the affidavited statements of these consumers to the effect that they had no grievances with the dealer. But the learned SDO finding the said show cause reply to be unacceptable held the petitioner as guilty for her alleged involvement of black marketing of food grains cancelled the PDS licence vide order contained in memo No. 2408/c dt. 29.12.2014. Thereafter, the petitioner preferred an appeal vide Supply Appeal No. 01/2015 before D.M. Gopalganj which was subsequently disposed of vide order dt. 11.09.2015. Against the said order, the petitioner approached the Hon'ble High Court by filing writ case but the said case was withdrawn later on leading to coming up of this case before this Court to avail the opportunity of revision.

Heard the learned counsel for the petitioner only. The learned Spl. P.P. filed his written arguments.

The learned counsel appearing on behalf of the petitioner strongly assailed the impugned order of cancellation of licence passed by the learned SDO as well as the impugned order of learned D.M. Gopalganj by saying that both the authorities have failed to consider the relevant facts of the case properly. He further argued that the inspecting team has found the shop closed and the petitioner in her show cause reply had mentioned that she had gone to a temple for a short time on the eve of Navratri and after returning she remained at her shop so the alleged charge that her shop was closed is wrong and baseless. But the licencing authority did not consider this. He also said that closure of shop for a day is not a serious offence for



warranting cancellation of PDS licence as repeatedly held by Hon'ble High Court but the licencing authority as well as the appellate authority completely ignored this point. The learned counsel further submitted that actually no consumers were interrogated by the inspecting team but their signature and card Nos. were taken on blank paper and later on alleged statements regarding irregular distribution charging excess price etc have been mentioned in the inquiry report. The learned counsel also specifically stated that this error in the inquiry report was also conceded by the learned D.M. and even he also observed in his order that the learned SDO had not considered the affidavited statement of the consumers attached with show cause reply what he ought to have considered and also to cross verify the allegation from distribution register. The learned counsel also argued that despite the said observations made by learned D.M. he finally upheld the impugned order of SDO on the ground that the closure of shop is a sufficient ground for cancellation of licence. Obviously, this findings of the learned D.M. is against the observation of Hon'ble High Court as such the impugned order is fit to be set aside in the interest of justice. He lastly submitted that as the licence of the petitioner has been cancelled for alleged offence of closure of shop for some genuine cause, the same should not have been upheld by the learned D.M. He lastly submitted that the impugned order is fit to be set aside.

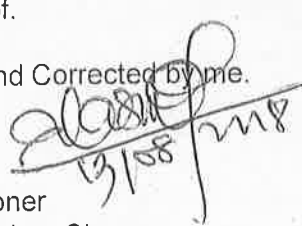
Considering the facts and circumstances of the case, material available on records pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is seen that the petitioner's licence has been cancelled by the licencing authority for some non serious allegations. The learned counsel for the petitioner assailed the said order of cancellation of licence by SDO as wholly unjustified in view of the fact that the shop was not closed regularly rather the same was closed for a short period on the day of inspection as it was necessitated for the reason that the petitioner had gone to a temple during Navratri festival. This plea of the petitioner's seems to be acceptable in view of the fact that closure of a PDS shop for a day for some genuine cause can not be made as a ground for the cancellation of licence. Regarding other allegations, the learned D.M. himself held in his order that the same was required to be verified by the SDO. The observation made by D.M. Gopalganj in his order itself makes, the impugned cancellation order unsustainable. In fact it appears that the appellate authority has failed to consider the point raised by the petitioner that mere closing of shop can not be a reason for cancellation of PDS licence.

In above view of the matter, this Court finds that the petitioner's case needs reconsideration as the reason quoted for cancellation of licence is not a serious reason warranting cancellation of PDS licence by the licencing authority.

For the aforementioned reasons, the impugned order of D.M. Gopalganj dt. 11.09.2015 is set aside and the case is remitted back to D.M. Gopalganj for reconsideration and to pass a fresh order in accordance with law.

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

Dictated and Corrected by me.


13/08/18
Commissioner
Saran Division, Chapra.


13/08/18
Commissioner
Saran Division, Chapra.