

**In The Court of Commissioner, Saran Division, Chapra**  
**Supply Rev. No. 60/17**  
**Indu Devi**  
**Vrs.**  
**The State of Bihar**  
**ORDER**

The instant revision application is directed against the impugned order passed by D.M. Siwan in Supply Appeal case No. 107/2016-17 on 28.03.2017.

The brief facts of the case are that Indu Devi, W/o Late Lal Babu Singh R/o Vill-Madanchak, Block and P.S. Daraundha, Dist-Siwan was a PDS dealer. Further case is that the petitioner's PDS shop was inspected by Sri Kumar Ramanuj, Director, DRDA, Siwan, as incharge senior officer of the block Daraundha as per the direction contained in order dt. 03.07.2016 of D.M. Siwan. The inspecting officer submitted his report to the concerned D.M. and thereafter, the said report was sent to SDO, Maharajganj by OSD, district confidential section vide letter No. 1899/c dt. 19.07.2016 for further action in the matter. In course of inspection following irregularities reportedly found like: the shop was found closed for two days and dealer remained absent, non-displaying of notice board and price list and not mentioning of upto date stock position and not giving cash memos to the consumers, non production of stock and distribution registers for inspection. Thereafter, the SDO, Maharajganj asked show cause from the concerned petitioner vide memo No. 379/Supply dt. 23.07.2016. The petitioner filed her show cause reply in which she mentioned that on the day of inspection she went to Chapra for her treatment and she also attached the medical prescription. But the learned SDO while considering the said show cause reply finally held that the claim of that she was absent due to her treatment and the prescription filed in support thereof was found to be forged as such he cancelled the said licence keeping in view the observation made by Hon'ble apex Court in Civil case No. 196/2011. Feeling aggrieved by the said order, the petitioner filed an appeal bearing Supply Appeal case No. 107/2016-17 before D.M. Siwan which was subsequently dismissed vide order dt. 28.03.2017.

On being aggrieved by and dissatisfied with the order passed by D.M. Siwan the petitioner has preferred the instant revision petition 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 order of the learned lower Court is wholly illegal, erroneous and against the mandatory provision of law. He further submitted that the appellant was never served with a proper notice as required under PDS (control) order and even no documents or any enclosures or report of any inquiry officer was tagged with the show cause notice. He also argued that the order of the learned lower Court is contradictory as it has been alleged that the petitioner was not present on the alleged date and time of inspection and if the shop was found closed then from whom he demanded the said registers. This apparent contradiction in the report itself makes the impugned order as invalid. The learned counsel also questioned the said inquiry report as the same was submitted in printed form in which all columns were not filled up. He further submitted that the inquiry officer has not disclosed in name of the person from whom he ascertained the complaint and even the learned D.M. did not consider properly the various points raised by him and also not appreciated the show cause reply and the documents filed by

the petitioner regarding her health. He also said that the learned D.M. has passed a mechanical order without considering the facts and circumstances of the case which were also not considered by the licencing authority.

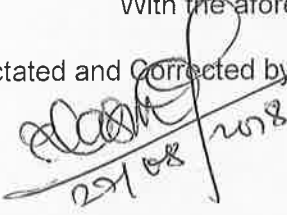
The learned Spl. P.P. appearing on behalf of the state while opposing the arguments forwarded by the learned counsel for the petitioner submitted that as the shop of the petitioner was found closed at the time of inspection, the action of cancellation taken by the licencing authority is legally correct in the light of observations made by Hon'ble apex Court.

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 appears that the petitioner's licence has been cancelled allegedly for some non-serious charges like closure of shop at the time of inspection. The contention of the petitioner's counsel is that as the petitioner was suffering from illness, she had gone to see the doctor under whom she was being treated on the day of inspection and in support of that she also filed copy of prescription of doctor but the same was termed as forged by the licencing authority. His other contention was that neither the copy of inquiry report nor the name of the person were disclosed alongwith the show cause notice to the petitioner and this lacuna makes the impugned cancellation order as legally incorrect. There seems to be same truth in the said plea of the petitioner in view of the fact that if the inquiry report as well as the name of the complaints are not supplied then how can the petitioner formulate his defence for the alleged charges levelled against her stated to have been found during inspection of her PDS shop. Obviously on this account itself the cancellation order of SDO becomes unsustainable in law. In fact the learned D.M. Siwan ought to have looked into this plea of the petitioner as appellate authority. By not doing so and not recording any reasons on the said plea of the petitioner, makes the impugned order also not sustainable.

For the aforementioned reason, the impugned order of D.M. Siwan is set aside and the case is remitted back to D.M. Siwan for reconsideration 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.

  
22/08/2018  
Commissioner  
Saran Division, Chapra.

  
22/08/2018  
Commissioner  
Saran Division, Chapra.