

**In The Court of Commissioner, Saran Division, Chapra**  
**Supply Rev. No. 36/2017**  
**Sada Nand Ojha**  
**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. 38/2016-17 on 10.02.17.

The brief facts of the case are that the petitioner Sadanand Ojha R/o Viil-Muriyari, Block-Mairwa, Dist-Siwan was a PDS dealer. Further case is that the shop of the petitioner was inspected on 14.06.16 by Sub-divisional level inspecting team following a complaint lodged by some consumers. In course of inspection following irregularities were found like; shop was found closed during working hour, the dealer was absent, due to absence of dealer no verification could be done of various registers and stock position; price list and stock position were not updated, 81 bags of wheat, 135 bags of rice were found in the stock; about 43 consumers alleged that the dealer used to make entry in their ration cards for the months by supplying the articles for one month, some consumers also alleged that 1.00 rupees excess was charged per K.G. of food grains and the same is given 1 kg less than the prescribed limit and besides that some other irregularities were also found. Thereafter, the inspecting team submitted report before the licencing authority the SDO Siwan Sadar who in turn served a show cause notice to the petitioner for the alleged irregularities. The petitioner filed his show cause reply but the learned SDO, on finding the same to be unsatisfactory, concocted and baseless. The SDO held the petitioner as guilty for committing gross irregularities and finally vide order dt. 16.07.2016 cancelled the licence of the petitioner. Feeling aggrieved by the said cancellation order, the petitioner preferred an appeal case before D.M. Siwan vide Supply Appeal case No. 38/2016-17 which was dismissed vide order dt. 10.02.2017.

On being aggrieved by and dissatisfied with the aforesaid 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 misdirected and exhibited apparent errors on records. He further argued that the learned D.M. overlooked the fact that the stock register for the month of May-2016 had been duly checked and verified by the BSO, Mairwa and in the bottom of said stock register on express entry has been made regarding deposit of all coupons of the month of May and June 2016 and it is totally falsify the allegations of irregularities. But the learned D.M. failed to take into account the fact that the stock register itself explain the truth thereby dismissing the complaint made for political reasons and the local Mukhiya was instrumental in getting the shop inspected who also happens to be a RJD worker and the alleged statements of consumers recorded at the instance of the said mukhia. The learned counsel further submitted that the learned D.M. did not apply his mind to the details of complaining consumers who had received their quota of food grains for the month of may 2016 either through themselves or their family members. He further strongly submitted that the appellate authority completely failed to apply his mind towards the malafide action of consumers complainant and inquiry team. It is also argued by the petitioner counsel that no opportunity of personal hearing, certificate was also not considered and doubts were casted on that. The learned counsel also argued that the learned D.M. has miserably failed to consider the relevant documents filed the petitioner to contradict the allegations levelled against him. This clearly

shows that the impugned order is unsustainable in law for the reason that the D.M. being appellate authority ought to have consider the documentary evidence filed by the petitioner without any prejudice. He lastly said that as the impugned order suffers from the vice of arbitrariness, the same is fit to be set aside.

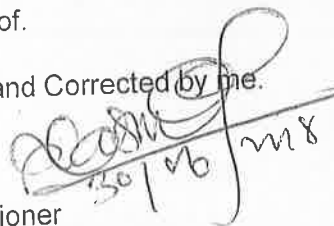
The learned Spl. P.P. appearing on behalf of D.M. on the other hand opposed the arguments made by the learned counsel for the petitioner and said that the impugned order is cogent, reasoned and proper having no ambiguity. He also said that since the gross irregularities have been found in distribution of food grains, the said action against the petitioner is just and proper.

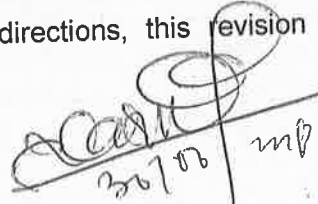
Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the petitioner and on perusal of the impugned order it is seen that the petitioner's PDS licence has been cancelled for the alleged irregularities stated to have been found in the inspection by the inspecting team. The plea of the petitioner is that the said allegations are baseless and have been made against him at the instance of one Mukhia who happens to be a RJD worker. His further contention is that although, the petitioner in his detailed show cause reply contradicted all the charges, but the documentary evidences filed by him in support thereof has not been considered appropriately neither by the licencing authority nor by the appellate authority. It is seen that both the authorities have considered the case of the petitioner superficially without going into relevant facts of the case. The claim of the petitioner's counsel is that the local Mukhia used to issue direction to the dealer in writing to give food grains and k.oil to his near dear and when the petitioner expressed his inability to do so repeatedly the said Mukhia made complaint and managed to get the petitioner's licence cancelled. In support of his said plea he submitted the said slips stated to have been issued by the Mukhia. The leaned counsel also strongly submitted that no other consumers or any panchayat representatives had any complaint with the petitioner. He has placed several certificates issued by the panchayat representative regarding fair distribution of petitioner. Thus it appears from the material facts available on records that the petitioner's licence has been cancelled on some unfounded allegation at the instigation of one Mukhia whose repeated recommendation for supplying articles to his near and dear has not been complied with by the dealer. The learned SDO ought to have looked into these aspects of the case before rejecting the show cause reply filed by the petitioner. It is also seen that the learned D.M. has also failed to consider the crucial facts of the case appropriately as appellate authority. The learned D.M. ought to have considered the facts properly keeping the documentary evidence filed by the petitioner and for that reason the impugned order becomes arbitrary and unsustainable in law.

Thus, for the reasons stated above, the impugned order of D.M. Siwan is set aside and the case is remitted back to D.M. Siwan for reconsideration and passing a fresh order in accordance with law after giving opportunity of hearing to the petitioner.

With the abovementioned observations and directions, this revision case is disposed of.

Dictated and Corrected by me.

  
30/11/08  
Commissioner  
Saran Division, Chapra.

  
30/11/08  
Commissioner  
Saran Division, Chapra.