

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 216/2014
Durgawati Devi
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Gopalganj in Supply Appeal case No. 09/2012 on 23.12.13.

The brief facts of the case are that the petitioner Durgawati Devi W/o Late Yogendra Chaudhary R/o Vill-Chanave Lachchawar, P.S.-Thawe, Dist-Gopalganj was a PDS dealer. Further case is that on 27.07.2011, the PDS shop of the petitioner was jointly inspected by BSO, Barauli and Majha. In course of inspection certain irregularities were found like: (1). Food grains for Antodaya scheme for the month of June 2011 was lifted wheat 1.90 quintal and Rice 2.94 quintal and stock was found nil and according to distribution only 13 coupons were found against which ration was delivered. (2). Food grains for BPL scheme for the month of June-2011 was lifted on 25.06.2011 to the term of 6.50 quintal wheat and 9.75 quintal rice and as per distribution register only 58 consumers were given grains but in sale register quantity of distribution grains were not show and only 54 coupons were found. (3). 632 litre k.oil for the month of July-2011 was lifted on 07.07.2011 and 12 litre which was in stock from previous month out of which 640 litre k.oil was shown to be distributed and only 4 litre as remaining in stock and altogether 177 coupons of k.oil was found. (4). The dealer used to give less quantity of food grains than prescribed quantity and also used to charge excess price than the rate fixed. Thereafter a report was sent to the licencing authority, the SDO, Gopalganj who in turn asked show cause from the petitioner for the above reported irregularities and also directed to submit the stock, distribute and coupons for last six months. In compliance to the said show cause notice the petitioner filed his show cause reply and also submitted the various documents. Then the SDO, on finding that the petitioner had committed gross irregularities in distribution of food grains and k.oil and for that he ordered for cancellation of the PDS licence of the petitioner vide order dt. 13.08.2011. Feeling aggrieved by the said order, the petitioner approached the Hon'ble High Court by way of filing CWJC. No. 19178/2011 which was subsequently disposed of vide order dt. 09.08.2012 with a direction to the petitioner to avail the statutory remedy of appeal before the Collector, Gopalganj and the said appeal was dismissed on 23.2.2013. On being aggrieved by the said order, 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 same is illegal, erroneous and against the principal of natural justice. He further argued that the order of D.M. does not indicate only in dependent application of mind but the said order is just or production of the order of SDO. The learned counsel further argued that the licencing authority did not serve the copy of the inspection report to the petitioner and the petitioner's licence has been cancelled for vague charges. He further argued that the order of D.M. is neither a speaking order nor reasoned as such the same is fit to be set aside.

The learned Spl. P.P. appearing on behalf of the state, strongly opposed the arguments forwarded by the learned counsel for the petitioner and submitted that the impugned order of D.M. is just, proper and reasoned. He further argued that the learned SDO in his order



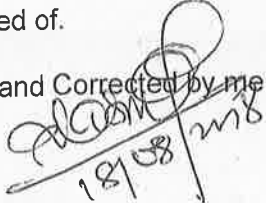
dealt the allegations found during inspection thoroughly. He also submitted that the present revision application being devoid of any merit is fit to be dismissed.

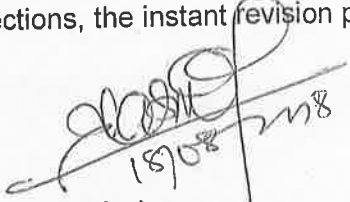
Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that the petitioner's PDS licence has been cancelled for alleged charges of serious irregularities in distribution of food grains and k.oil to the consumers. The sole contention of the petitioner is that she was not being served with the inspection report as such she has been deprived of her legal rights. This plea of the learned counsel for the petitioner seems to be true in view of the fact that nothing is available on the records to suggest that the petitioner was supplied with the copy of the inspection report alongwith the show cause notice. Obviously, this flaw on the part of the licencing authority makes the entire action of the cancellation of licence as arbitrary and unsustainable in law. It is also seen that although, the petitioner had filed her show cause reply refuting all the allegations supported by documentary evidence, the same has not been considered by the licencing authority. The learned counsel is also of the view that the impugned order of D.M. Gopalganj is neither a reasoned nor a speaking order. This plea of the petitioner worth consideration in view of the fact that the appellate authority ought to have recorded his independent findings keeping in view the material facts available on records and pleadings forwarded by the parties. However, it is seen that the learned D.M. has not recorded any finding regarding the claim of the petitioner that she was not served with the copy of inquiry report alongwith the show cause notice.

For the aforementioned reasons, the impugned order of D.M. Gopalganj is not sustainable and hence the same is set aside and the case is remitted back to D.M. Gopalganj 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.


18/08/2018
Commissioner
Saran Division, Chapra.


18/08/2018
Commissioner
Saran Division, Chapra.