

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 267/2014
Falpura PACS through its Chairman
Akhileshwar Singh
Vrs.
The State of Bihar
ORDER

The instant revision application is directed against the impugned order passed by D.M. Siwan in Supply Appeal No. 50/2013-14 on 13.08.2014.

The brief facts of the case are that Akhileshwar Singh was running a PDS of shop as chairman of Falpura PACS in gram panchayat Falpura in Hasanpura block of Siwan district. Further case is that the petitioner's PDS shop was inspected on 06.04.2013 at 12.30 P.M. by ADSO-cum-BSO-Hasanpura and BSO Pachrukhi and in course of inspection following irregularities were found like; at the time of inspection the shop was found closed and the dealer was absent, on the day of inspection the stock position was shown to be nil against all article, the shop was found to be running from the dealer's private house, during inspection consumers named Hasmuddin khan and some others stated that they were not given any food grains for the month of sept-12, Octo-12 and Jan-2013 and coupons of those consumers were found in in possession and of some other consumers Fulmati Devi W/o Shiv Bhachan Mahto gave her written statement that she was not given any food grains for the month of Sep-2012 and while giving grains for the month of Dec-2012, coupons of Jan-2013 was also taken away; some other BPL card holders of vill-Bhishbharpur gave their written statement that dealer used to take two months coupons by giving one month ration. Besides this the petitioner shop was found to be running from his private house and not from the place mentioned in the licence. Thereafter, the matter was reported to the SDO, Siwan Sadar, who in turn served a show cause notice on the petitioner with a specific direction to furnish with regard to allegations mentioned therein his reply failing which it would be presumed that the allegation are accepted by you and your licence would be cancelled. In compliance to the said show cause notice the petitioner filed his show cause reply denying all the charges but the SDO, after considering the said show cause reply finally cancelled concluded after detail analysis that the food grains meant for the consumers were sold in black market instead of distributing the same amongst the consumers resulting in the cancellation of the said licence and the said order was communicated vide memo No. 192/Supply dt. 17.06.13. Feeling aggrieved by the said order, the petitioner approached the D.M. Siwan by way of filing appeal. The said appeal case was dismissed vide order dt. 13.08.14. On being aggrieved by the appellate order, the petitioner case before this Court by filing the instant revision case.

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 misconceived and not sustainable in law for the reason that the said order has been passed without applying the judicial mind. He further argued that although, the petitioner had file cogent and reliable reply is compliance to the show cause notice with respect to the alleged charges of irregularities but the learned D.M. without considering the same judiciously, cancelled the licence. The learned counsel further argued in details about the every allegations levelled against the petitioner and the so called denial made by the petitioner in his show cause reply but the same was not considered at all making the

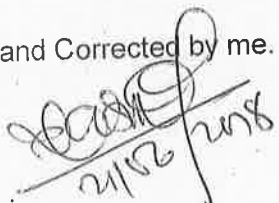
cancellation order invalid. But the learned D.M. did not consider this important aspect of the case. He further submitted that the allegation that the said PACS shop was being run from the private house instead of the place mentioned in the licence, he said that the same was felt necessary to avoid any harassment to the consumers of faraway places and that too on the oral consent given by the concerned officer. He further said that all the allegations against the petitioner were levelled on false and baseless ground. Regarding distribution of grains to the consumers without lifting the same, the learned counsel said that the same was done on the advice of the concerned BSO. He lastly said that as the appellate Court did not consider the relevant facts of the case appropriately, the impugned order becomes improper and arbitrary and the said order is also fit to be set aside.

The learned Spl. P.P. appearing on behalf of the D.M. Siwan on the other hand strongly supported the impugned order and submitted that the same is just, proper and valid. He further argued that since the allegations against the petitioner are of serious nature, the action of cancellation of the licence is correct.

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 seems that the PDS licence of the said PACS has been cancelled on the ground of some serious allegations like running the shop from the house of the chairman of the PACS and also of distribution of grains to the consumers without lifting the same from godown. These two irregularities are certainly be treated as violation of the terms and conditions of PDS licence. The petitioner's claim that the said two allegations can not be held as serious allegations in view of the fact that the same were done on the advice and approval of BSO. However, from the impugned cancellation order of SDO as well as appellate order of D.M. Siwan, it appears that both the authorities have not given much significance to the said contention of the petitioner. It is also to be noted that cancellation order of SDO as well as appellate order of D.M. seems to be exhaustive and reasoned. The learned counsel for the petitioner failed to point out any specific illegality in the said orders. As such this Court does not find any good ground to make any interference in the impugned order of D.M. Siwan. Hence the same is upheld.

For the reasons mentioned above, the instant revision petition is dismissed.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


21/12/86
Commissioner
Saran Division, Chapra.