

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 169/2016
Surendra Ram
Vrs.
The State of Bihar
ORDER

The instant revision application is directed against the impugned order passed by D.M. Gopalganj in Supply Appeal case No. 06/2016 on 08.07.2016.

The brief facts of the case are that the petitioner Surendra Ram R/o Gram Panchayat Mahodipur, Block-Barauli, Dist-Gopalganj was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected on 21.01.2016 at about 1.00 P.M. by SDO, Gopalganj Sadar alongwith ADSO, Gopalganj. In course of inspection it was found that as per entry in the stock register 38.70 quintal wheat and 58.00 quintal rice should have been remained in stock. But on verification of the same in stock only 78 bags of wheat and 105 bags of rice was found and 5.50 quintal rice was found less. Further as per stock register 723 litre k.oil should be available but 70.00 litre less k.oil was found. For the said irregularities, the SDO, Gopalganj vide letter No. 67 dt. 25.01.2016 asked show cause from the petitioner. The petitioner filed his show cause reply in which he specifically mentioned that during verification of stock food grains bags fell behind the stock so the same could not be counted as a result grains quantity became short. Regarding k.oil he wrote that in three drums the total k.oil was 670 litre and 10 litre was in cane so the K.oil was also in right quantity. However, the learned SDO, on finding the said show cause reply to be unsatisfactory and holding the petitioner as guilty for violating the terms and conditions of PDS licence, cancelled the said licence vide order contained in memo No. 329 dt. 04.02.2016. Feeling aggrieved by the said order, the petitioner preferred an appeal case vide Supply Appeal case No. 06/2016 before D.M. Gopalganj but the said appeal case was dismissed on 08.07.2016. On being aggrieved by and dissatisfied with the aforesaid order of D.M. Gopalganj, the petitioner has preferred the instant revision before this Court.

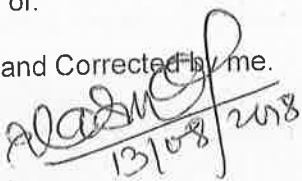
The learned counsel appearing on behalf of the petitioner at the very outset of his argument assailed the impugned cancellation order passed by SDO, Gopalganj Sadar as well as the appellate order of D.M. Gopalganj on the ground that both the authorities failed to provide justice to the petitioner who was in no way guilty of violating the terms and conditions of PDS licence. He further submitted that from perusal of the order of SDO, Gopalganj it would be apparent that no reasonable opportunity of hearing to the petitioner has been given nor he has been given opportunity to produce the relevant registers to contradict the charges and there by principle of natural justice has not been complied with before passing the cancellation order. He also argued that even the D.M. Gopalganj also did not consider this point. He also argued that the reported irregularities are self manufactured and false which can not be believed. He also submitted that the petitioner is running PDS shop since 1990 and previously no consumers have made any complaints against the petitioner. In fact the petitioner used to distribute the food grains and k.oil regularly to all his consumers. The learned counsel lastly prayed that as the impugned order is illegal and improper the same be set aside and the petitioner's licence be restored.

The learned Spl. P.P. in his written statement supported the impugned order and wrote that the same is cogent, reasoned and proper having no illegality as such the same is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the petitioner and on perusal of the impugned order, it is seen that the petitioner's licence has been cancelled for availability of less quantity of food grains and k.oil during physical verification what was shown to be available in his stock registers during inspection of his PDS shop. The claim of the petitioner is that actually no shortage of food grains were found but the inspecting authority wrongly held that there was shortage of grains. The petitioner counsel further claims that although, he explained these facts through his show cause reply, the learned SDO and learned D.M. did not consider the same properly. The other claim of the petitioner's counsel is that he has been denied opportunity to file documentary evidence in support of his defence. It is seen that although the petitioner had refuted all the alleged charges levelled against him through the show cause reply but the same has not been considered appropriately by the licencing authority. This is sufficient to show that the petitioner's licence has been cancelled in haste. At least, the appellate authority, the D.M. ought to have considered those points, raised before him by the petitioner to arrive at the final findings of fact. It appears that the learned D.M. has failed to consider the factual matrix of the case properly and he simply relied on the findings of licencing authority which itself was arbitrary. In fact, the petitioner's case needs reconsideration at the level of appellate authority so that substantial justice may be done to the petitioner. As such the impugned order of D.M. Gopalganj is not sustainable and hence the same is set aside. The case is remitted back to the D.M. Gopalganj for reconsideration and to pass a fresh order in accordance with law after giving opportunity of hearing to the petitioner.

With the aforesaid observations and directions, the instant revision petition is disposed of.

Dictated and Corrected by me.


13/08/2018
Commissioner
Saran Division, Chapra.


13/08/2018
Commissioner
Saran Division, Chapra.