

In The Court of Commissioner, Saran Division, Chapra

Supply Rev. No. 13/2016

Sudama Ram

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. 25/2015 on 15.12.2015.

The brief facts of the case are that the petitioner Sudama Ram S/o Late Guljar Ram, R/o vill-Deurwa, Block-Kuchaiyakot, Dist-Gopalganj was a PDS dealer. Further case is that one Hare Ram Singh of village Sanghadih alongwith some other persons filed a complaint before the BSO, Kuchaikot. Thereafter, on 14.08.15, the petitioner PDS shop was inspected by BSO and in course of inspection altogether 22 consumers alleged about the irregularities in the distribution of food grains to the consumers and it was further alleged by one Hare Ram Singh that the petitioner was caught by the villager while he was selling eight bags of rice to a trader. Thereafter, the SDO, Gopalganj issued show cause notice to the petitioner. In response to that the petitioner filed his show cause reply denying all the alleged charges of irregularities. However, the SDO, held the petitioner to be guilty for violating the terms and conditions of PDS licence and also held that the reported irregularities against the petitioner to be true and he accordingly cancelled the PDS licence No. 116/07 of the petitioner. Then the petitioner filed on appeal case bearing Supply Appeal No. 25/2015 before D.M. Gopalganj. The learned D.M. after hearing the case finally vide order dt. 15.02.2015 upheld the order passed by SDO, Gopalganj and accordingly, the said appeal case was dismissed. Feeling aggrieved by the said 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 passed by learned D.M. is not sustainable in law. He further assailed the cancellation order passed by SDO and submitted that although the petitioner had denied the charges in his detailed show cause reply but the same was not considered properly. He also said that even the persons alleged to have got recorded their statement before the inquiry officer were not examined and no evidence was collected. He also argued that the petitioner was not afforded any opportunity of hearing before passing the final order. The learned counsel also submitted that the illegality of the cancellation of licence was raised before the learned D.M. in appeal. He further submitted that even the Panchayat representative like Blok Parmuk, members of Panchayat Samiti and ward members have given certificate regarding the fair distribution of grains and k.oil by the petitioner which is available on record the learned D.M. did not consider the real facts of the case and he relied upon the complaint of the person who was not the consumers of the petitioner. The learned counsel also submitted that as the petitioner belongs to SC category his PDS licence should not have been cancelled by the licencing authority in view of the guidelines given to the officials by the Govt. in the year-1996. He lastly prayed that in view of the facts mentioned the impugned order is fit to be set aside and the revision petition is fit to be allowed.

The learned Spl. P.P. appearing behalf of the state, on the other hand, while opposing the pleas forwarded by the learned counsel for the petitioner strongly asserted that the petitioner was found to be involved in black marketing of food grains and the same has been found true during inquiry. And on that charges his licence has been cancelled. He further said that the impugned order is just and proper having no infirmity 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 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 and besides that he was also caught by villagers while selling eight bags of rice to a trader. The only plea taken by the petitioner at this stage is that all those 22 consumers whose statement before inquiry officers became the basis of proving the allegations have since been given affidavited statement regarding fair distribution of food grains and k.oil to them and they have no complaint whatsoever from the petitioner. Similarly certain panchayat representatives have also given the same version in writing. Legally this can not be taken into consideration at this stage. His further plea is that the said 8 bags of rice alleged to have been sold in black market, has not been done and the said allegations have been made before the inquiry officer by the persons who were inimical him. This plea seems to be correct as the said rice has not been sold and no such report has been made. In fact the petitioner should have raised this issue before the licencing authority or before the appellate Court. This Court finds no reason to consider these points. However, the plea made by the petitioner, that the alleged complainant since denied to have made any allegation against the petitioner before, the inquiry officer and they have also given affidavited statement on this account, this plea of the petitioner seems to be acceptable to some extent and also require to be examined to arrive at the real truth. Whatever may be the reason for the change in statements of the complainants the same needs to be cross-checked first in order to arrive at the real facts. It is seen that this point has not been considered by the appellate Court. At least, the appellate authority ought to have looked in to this point so that substantial justice be done to the petitioner and the petitioner should not have been deprived from his right to defend himself.

For the aforementioned reasons, the impugned order is not sustainable and hence the same is set aside. The case is remitted back to D.M. Gopalganj for reconsideration and passing a fresh order in accordance with law.

With the aforementioned observations and directions, this revision application is disposed of.

Dictated and Corrected by me.

Commissioner
Saran Division, Chapra.

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