

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 167/2016
Sita Ram Gupta
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. 10/2016 on 03.06.2016.

The brief facts of the case are that the petitioner Sita Ram Gupta S/o Hira Lal Gupta, R/o Vill-Sabiya, P.S.-Mirganj, Dist-Gopalganj was a PDS dealer and his licence No. was 12/2007. Further case is that a report was sent by the Block Supply inspector vide letter No. 237 dt. 30.11.2015 to the SDO Hathua mentioning therein that the dealer used to distribute the ration and kerosene amongst the consumers of the Line Bazar Panchyat from a place named as Barka Gaon Tiwari Tola and when order regarding said change in the place of distribution was demanded from the dealer he failed to produce any official order. Thereafter, on the said report of block Supply inspector, the SDO, Hathua vide memo No. 52 dt. 14.01.16 asked show cause reply for the said irregularity. The petitioner filed his show cause reply on 25.01.2016 but he failed to produce any official order. Then again, the SDO gave an opportunity to the petitioner to be present in person before him alongwith the copy of the order, if any, as evidence for the said charges but the petitioner did not turn up before the SDO, to press his defence. Then the learned SDO, took the said conduct of the dealer against the terms and conditions of PDS (control) order 2011 and also held that the food grains and k.oil was stocked at a changed place for the purpose of black marketing the same and ultimately he cancelled the licence vide order contained in memo No. 152/conf. dt. 05.02.2016. Feeling aggrieved by the said order, the petitioner preferred an appeal case vide Supply Appeal No. 10/2016 before D.M. Gopalganj and the said appeal was dismissed vide order dt. 03.06.2016. This led to coming up of this revision petition before this Court

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner submitted that the petitioner's PDS licence has been cancelled mainly on the ground that he used to distribute the grains and k.oil from another place instead of the place mentioned in the licence. He further said that as the PDS licence of the shopkeeper named Bibi Fatima was cancelled earlier her consumers attached with the petitioner PDS shop, as per the instruction of SDO, the petitioner used to make distribution from the Line Bazar Panchayat which was necessitated on the request of the consumers. He further said that this petitioner has given in writing seeking permission for distribution of articles, the SDO gave oral order to distribute the commodity in Line Bazar. The learned counsel further said that from Dec-2014 to Nov-2015 (period of tagging) distribution was made in the presence of M.O. and no one ever made any complaint regarding irregularity in distribution and M.O. sent the report only after the restoration of the cancellation licence of Bibi Fatima at the end of tagging. He further said that although, the petitioner filed his show cause reply stating therein all the facts but the learned SDO did not consider the same. He also argued that the learned D.M. also did not consider the said



facts and dismissed the appeal without considering the relevant facts and evidence brought before him. He lastly said that as the impugned order is arbitrary and illegal the same is fit to be set aside.

The learned Spl. P.P. on the other hand, strongly opposed the arguments forwarded by the learned counsel for the petitioner, said that the petitioner without obtaining any permission from the concerned authority, changed his business premise to another panchayat as such he violated the terms and conditions of the licence. He further argued that as the petitioner failed to furnish any satisfactory reply for that, his licence has been cancelled. The learned D.M. has also upheld the said cancellation order. He lastly said that the impugned order is fit to be upheld also by this Court.

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 licence has been cancelled for violating the terms and conditions of licence. In fact, the petitioner used to run his PDS shop from another panchayat other than from the place mentioned in his licence document. Although, it appears that the petitioner tried his best to defend himself by saying that he shifted his distribution work from Kandhi Gope panchayat to Line Bazar panchayat on the oral order of the authority, but he failed to show any official order in this regard and this is one of the strong reason for cancellation of this PDS licence. The learned counsel for the petitioner failed to produce copy of any such order signed by the competent authority regarding grant of permission for shifting the business place. In absence of any documentary evidence, the oral order has got no legal validity unless the same is reduced into writing. Thus, I do not find any illegality in the impugned order of D.M. Saran which is a reasoned order.

For the aforesaid reasons, the impugned order of D.M. is upheld and this revision petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


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