

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 69/2017
Nirmala Devi
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Saran in Supply Appeal case No. 27/2015 on 11.04.2017.

The brief facts of the case are that the petitioner Nirmala Devi W/o Nand Kishore Singh, R/o vill-Dhanauti, Block-Panapur, Dist-Saran was a PDS dealer. Further case is that the petitioner's PDS shop was inspected on 05.09.2012 by a joint team consisting of Md. Rashid Alam, OSD, Food and Consumer Protection Deptt. Govt. of Bihar, Patna and Mithilesh Kr. Sinha, M.O. (HQ). In course of inspection following irregularities were found; certain consumers attached with the PDS shop of the petitioner alleged that they were given 3 Kg. Less food under Antodaya Scheme after taking rupees 150; BPL coupon holders alleged that they were given five kg. less food grains after taking 150 rupees, consumers attached with the PDS shop of the petitioner stated that 2.5 litre of k.oil was given after taking 43 rupees. Thereafter, the SDO, Marhaurah asked show cause with regard to above reported irregularities thrice from the petitioner vide memo No. 3108 dt. 24.09.2012; 3302 dt. 08.10.2012 and 3454 dt. 18.10.2012. The petitioner filed her show cause reply and on finding the said show cause reply to be unsatisfactory, the SDO, Marhaurah vide memo No. 3567 dt. 31.10.12, cancelled the PDS licence. Feeling aggrieved by the said order, the petitioner filed an appeal case before D.M. Saran vide Supply Appeal case No. 27/2015. The learned D.M. after hearing the case finally vide order dt. 11.04.2017 dismissed the said appeal which led to coming up of this 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 is illegal, bad and erroneous and also against the principle of natural justice. He further said that the learned D.M. has passed the order without perusing the submission that no adverse report had been supplied to the petitioner and as such non-supply of adverse report is against the principle of natural justice. The learned counsel further submitted that the learned Court below failed to consider the explanation and show cause filed the petitioner. He also said that the learned D.M. ought to have held that there was no illegality in the distribution of commodities to the consumers but the Court below erred in the considering the evidence recorded in absence of the party. The learned D.M. should have held that the petitioner had not violated any terms and conditions of PDS licence. He lastly prayed that the impugned order be set aside and this revision petition be allowed.

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 as in the inquiry report of H.Q. team, the allegation made by consumers are of serious nature and for that reason, the impugned order has been just and proper having no infirmity. He further said that the impugned order is fit to be upheld.

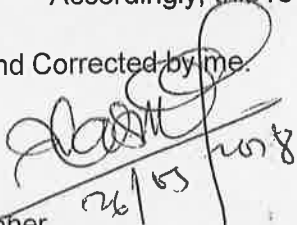


Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that the PDS licence of the petitioner has been cancelled by the licencing authority for the reason that serious irregularities were detected by the H.Q. team during inspection. The learned counsel for the petitioner is of the view that the copy of adverse report against the petitioner has not been supplied to him alongwith the show cause notice. This plea of the petitioner seems to be partly correct in view of the material available on record. The show notice issued vide memo No. 3108 dt. 24.09.2012 from the office of SDO, Marhaurah in which it has been clearly mentioned about the irregularities found during inspection but who were the person on whose statement, the said irregularities were framed against the petitioner, whose names are completely missing in the show cause notice. In spite of that the petitioner filed her show cause reply denying the charges. The only fault on the part of the petitioner is that she failed to file the show cause reply within the stipulated period. It is seen that the learned D.M. Saran after considering each and every aspects of the case properly has arrived at the final findings of fact relating to commission of irregularities in distribution of food grains and k.oil by the petitioner. The learned counsel for the petitioner has failed to point out any specific illegality in the impugned order.

For the reasons discussed above, I am not inclined to interfere with the impugned order of D.M. Saran as such the same is upheld.

Accordingly, this revision application is dismissed.

Dictated and Corrected by me.


26/05/2018
Commissioner
Saran Division, Chapra.


26/05/2018
Commissioner
Saran Division, Chapra.