

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 66/2016
Kashi Nath Rai
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Saran in Supply Appeal No. 32/2015 on 07.01.2016.

The brief facts of the case are that the petitioner Kashi Nath Rai, S/o Asarfi Rai, R/o Vill-Suraundha, P.S.-Baniyapur, Dist-Saran was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected by BSO, Baniyapur at 11.50 A.M. on 23.02.2015. In Course of inspection certain irregularities were found like; although the dealer was present but he did not produce any register for inspection, list of consumers were not found displayed in front of shop, cash memes were not issued to the consumers, food grains and kerosene were not distributed in each month and whenever it was distributed, the same was in less quantity than the prescribed quantity and that two on charging excess price than the prescribed price, on perusal of ration cards of 10 consumers, it was found that they have been denied food grains since june-2014. Thereafter, the SDO, Chapra Sadar asked show cause with respect to the reported irregularities from the dealer vide memo No. 726 dt. 25.05.2015 but the petitioner failed to file any show cause reply resulting the cancellation of licence vide memo No. 1016 dt. 04.08.2015. This led to filing of an appeal before D.M. Saran which was dismissed vide order dt. 07.01.2016. 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, while assailing the impugned order, submitted that the said order is not based on analysis of facts and laws. The learned counsel further submitted that the petitioner had filed his show cause reply before the SDO, but the same was not taken into consideration. He further denied all the allegations levelled against him and also said that even his consumers gave in writing and jointly signed by them that they received food grains and K.oil in fixed quantity and on fixed prices. He also submitted that the learned D.M. without going into the details of the case simply confirmed the order of SDO and dismissed the appeal. He lastly submitted that the impugned order is fit to be set aside.

The learned Spl. P.P. appearing on behalf of the state supported the impugned order and further said that the allegation against the petitioner was of serious nature and for that his licence has been cancelled. He also argued that the impugned that the impugned order is cogent, reasoned and speaking having no illegalities as such the same is fit to be upheld and the instant revision petition being devoid of any merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the parties and on going through the impugned order, it is quite obvious that the petitioner's licence has been cancelled by

the licencing authority, the SDO for the alleged charges of irregularities reportedly found during the inspection. Even the learned D.M. also upheld the said order. The learned counsel for the petitioner failed to point out any specific illegality in the said order. Although, the petitioner counsel is of the view that the petitioner had filed his show cause reply for the alleged charges levelled against him, but from the impugned order is quite obvious that no show cause reply was filed by the petitioner as specifically mentioned in the order of D.M. Whereas in the order of SDO, it is mentioned that the show cause reply filed by the petitioner was found unsatisfactory on perusal. In fact, this is an important point of contradiction in the order of D.M. because of the fact that the SDO in his order held that the petitioner had filed his show cause reply which was not point wise. This contradiction itself makes the impugned order defective. The appellate authority should have considered the entire facts fact of the case appropriately to arrive at the correct finding of fact.

For the aforementioned reasons, the impugned order is not sustainable and hence the same is set aside. The case is remitted back to the D.M. Saran for fresh consideration and to pass fresh order after considering all relevant facts of the case in true perspective.

With the aforesaid observation and direction this revision petition is disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.