

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHHAPRA

Supply Revision No..... 109/2012

Chandeshwar Rai Petitioner

Vrs

The State of Bihar & Others ... Respondents

ORDER

13.02.2013

The instant revision application is directed against the impugned order passed by D.M. Saran on 28.02.2012 in Supply Appeal case No. 06/2010 where by and whereunder the cancellation order passed by SDO, Marhaurah un respect of PDS licence was upheld.

The brief fact of the case is that Chandeshwar Rai S/o late Kishori Rai R/o VII-Madhapur PS-Marhaurah, Dist-Saran was a PDS licensee having licence No. 13407. The PDS shop of the petitioner was inspected by BDO, Amnaur on 17.01.2010 vide order of D.M. Saran as contained in memo No.134/C dt. 16.01.2010. The said inspection report was forwarded to the SDO Marhaurah for legal action in the matter. Thereafter vide memo No. 114/C dt. 07.02.2010 a show cause was asked from the petitioner in which he was directed to show cause for the following irregularities. 1 Notice board was not updated. (2) Cattle's were tied at the place meant for distribution. (3) Shop was closed at the time of inspection. (4) Only K.oil distribution register was produced and even the K. oil was not distributed despite lifting the same on 23.01.2010. (5) Distribution registers of food grains and stock registers were not produced on demand and the licensee flee away from the spot which showed his involvement in blackmarketing. (6) Consumers produced Ration Coupons meant for the month of July 2009 to Dec 2009, which showed irregularities in distribution and it was also complained that even the K.oil was distributed at 3-4 months interval. The petitioner filed his

show cause reply rebutting all the charges and also filed document in support of his claims but the SDO, on finding the show cause reply to be unsatisfactory, suspended the licence vide memo No. 593 dt. 18.02.2010 and second show cause was asked for. The petitioner filed his second show cause reply repeating the same pleas of what he took in earlier show cause reply. However, the SDO. Ultimately cancelled the licence vide order dt. 31.03.2010. This led to filing of an appeal case before D.M. Saran vide Supply case No. 16/2010 which was dismissed on 28.02.2012.

3. Heard.

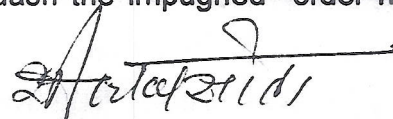
4. The learned counsel appearing on behalf of the petitioner submitted that the order passed by the learned D.M. Saran is bad in law as the same is against the weight of evidence on record. He further submitted that all the charges levelled against the petitioner were refuted by him in the show cause reply but the same were not considered. The learned counsel also argued that the learned lower Courts wrongly relied upon the complaints of the persons who were not consumers of the PDS shop of the petitioner and the inquiry report relating to article of Antodaya/ BPL were wrong, false and totally biased. The learned counsel lastly submitted that the learned Court's order is against the sound principle of equity, conscience and good judgement hence the same is fit to be set aside.

The learned Spl. P.P. appearing on behalf of the State submitted that there were serious charges against the PDS shop licensee and it was on the said inquiry report of BSO the licence was first suspended and later on cancelled. The impugned order does not suffer from any illegality and the same is proper. Hence the revision petition having no merit, is fit to be dismissed.

I perused the so called impugned order dt. 31.03.2010 of the SDO vide memo No. 1947 dated 01.04.2010 which I found to ^{be} rather cryptic and disjointed. It spoke about the two letters of the district Collectors without mentioning their contents. It did not mention any allegation against the PDS dealer or any wrongdoing. It mentioned that explanation was called but the explanation was found to be unsatisfactory but the grounds on which explanation was called and the reasons for which the explanation was found unsatisfactory or rejected have not been mentioned. The bare reading gives the impression that the licensing authority did not apply his mind rendering the order liable to be set aside. But perusal of the Lower Court's record reveals the existence of the real order dated 31.03.2010 which is elaborate and reasoned.

It is surprising how the learned counsel omitted to file the main order dated 31.03.2012 of the SDO which reveals the clear picture. Each point of allegations and the findings thereof are mentioned very clearly in the order. No wonder the Collector also upheld the order. The learned counsel fails to mention what weight of evidence on record go against the impugned order(s) and what principle of equity, ^{conscience} ~~conceived~~ and good judgement go against the impugned order. He failed to point out illegality in the impugned orders or any procedural mistake which render the impugned order liable to be set aside. Factual disputes can not be reinquired into at the revisional stage.

I do not find any cogent ground to quash the impugned order hence the revision is dismissed.



(C.Lalsawta)

Commissioner, Saran Division, Chhapra.

L.S. No. 109/13
E. L. S. No. 13
4.3.13