

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 41/2016
Mogal Ram
Vrs.
The State of Bihar
ORDER

12.08.17

The instant revision petition is directed against the impugned order passed by D.M. Siwan in Supply Appeal No. 57/2013-14 on 15.01.2016.

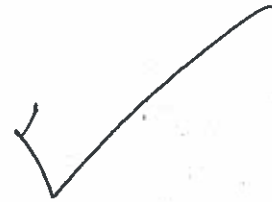
The brief facts of the case is that the petitioner Mogal Ram, S/o Sanchit Ram, R/o Vill-Khedwan, Circle-Bhagwanpur, Dist-Siwan was a PDS dealer. Further case is that the BSO, Bhagwanpur Hat sent a report to the SDO, Maharajganj vide letter No. 07 dt. 12.01.2012 that the dealer had not deposited pay-in-slip for lifting the food grains for Antodaya and BPL scheme from the month of Oct-2012 to Feb-2013 as such his licence be cancelled. The SDO asked show cause from the petitioner and on finding the show cause reply submitted by the petitioner to be unsatisfactory, finally cancelled the licence vide memo No. 386 dt. 24.06.2013. This led to filing of an appeal petition before D.M. Siwan vide Supply Appeal No. 57/2013-14. The D.M. on finding that the said appeal petition has been filed after the statutory period and condonation petition filed was not found satisfactory, he rejected the said appeal. 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 forwarded a detailed arguments so far as the merit of the case is concerned. He further assailed the impugned order that the learned court has erred in not hearing the appellants lawyer. He lastly submitted that as the impugned order is illegal and arbitrary the same is fit to be set aside.

The learned Spl. P.P. on the other hand, submitted that the case of the petitioners has not been decided by the appellate Court on merit but in fact the appeal has been dismissed on the point of delay caused in filing the appeal. He lastly said that the merit of the case can not be decided in revision stage now.

Considering the facts and circumstances of the case, material available on records and on perusal of the impugned order, it is quite obvious that the petitioner's appeal petition has been rejected mainly on the ground that the said appeal petition had been preferred with some delay and the cause explained for such delay in the form of condonation petition was not satisfactory. Thus it becomes quite apparent that merit of the case has not been considered at all by the appellate authority, the D.M. Siwan and as such justice has also not been done to the petitioner. For the sake of justice, it is essential that the petitioner's case be decided on merit by the appellate authority.



For the aforesaid reasons, the impugned order of D.M. Siwan is not sustainable and hence the same is set aside and the case is remitted back to the appellate authority, the D.M. Siwan to consider the case of the petitioner on merit after hearing the parties and then pass a reasoned order in accordance with law. Moreover, it is made clear that this Court has not gone into the merit of the case.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


12/05/2013
Commissioner
Saran Division, Chapra.