

**IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHHAPRA**

Supply Revision No.- 94/2011

Vidya Sagar Giri ----- Petitioner

Vs

The D.M., Gopalganj & Others ----- Respondents

**ORDER**

**15.03.2013**

The instant revision petition is directed against the impugned order passed by SDO, Hathua as contained in Memo No.-547/supply dt. 15-10-2009 whereby and whereunder, the petitioner's PDS licence was cancelled.

2. The brief fact of the case is that the petitioner Vidya Sagar Giri, s/o-Bishwash Giri, r/o vill-Daukha PS-Bhore, Dist.-Gopalganj was a PDS licensee. The BSO, Bhore inspected the shop pursuant to the direction of the SDO, Hathua as contained in Memo No-476 dt.19.08.06 following a complaint filed by Smt. Anupama Rai, Pramukh, Bhore Block wherein it was alleged that the petitioner did not distribute the poshahar rice lifted by him till the month of January 2006. When the BSO, Bhore inspected the PDS shop he found that the K.oil meant for August 06 was not distributed and earlier too the K.oil was distributed at a gap of 2-3 months and also the behaviour of the petitioner was not proper with the consumers. The allegations against the dealer were substantiated by the documents and registers submitted by concerned teachers of the schools. The SDO issued a show cause notice to the PDS shopkeeper; vide Memo No-555 dt 6.9.2006 to which the shopkeeper replied stating therein that the allegations against him were levelled against him due to caste feelings and enmity developed during panchyat election. Thereafter, the BSO Bhorey sent a report regarding gross irregularities in distribution of poshahar rice and in distribution of K. oil. The SDO, suspended the petitioner's licence vide Memo No. 1049 dt. 3.12.2006 and issued second show cause notice. The petitioner filed his second show cause reply and on the basis of report submitted by Executive Magistrate, Hathua and BSO, Bhore, the SDO, recommended for revocation of suspension of the PDS

licence of the petitioner to the DM, Gopalganj vide letter No. 261 dt. 3.1.2008. The District Level Section Committee (DLSC) in its meeting on 4.2.2008 decided to order for joint enquiry. The joint inquiry was conducted by BSO Vijaypur, the BSO Hathua and the Executive Magistrate, Hathua. The joint inquiry report mentioned irregularities committed by the PDS dealer in the matter and the said enquiry report was sent to the DLSC which in turn in its meeting dt. 28-11-2008 decided not to accept the recommendation for revocation of suspension of the licence but in favour of cancellation. Accordingly the SDO, cancelled the licence vide order dt. 15.10.2009

3. On being aggrieved by and dissatisfied with the aforesaid order, the PDS dealer preferred an appeal case No-123/2009 against the order of the SDO before this Court but was dismissed vide order dt. 7.9.2010 with a direction that the dealer, if he so liked, might file a revision petition against the decision of DLSC. The led to filing of the instant revision case.

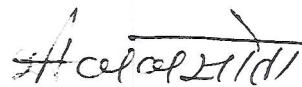
4. Heard the parties

5. The learned counsel for the petitioner while arguing the matter submitted that the order passed by District Level Section Committee is wrong erroneous and partial and even the respondents have failed to appreciate that due to local politics and enmity the Block Pramukh, Bhore filed complaint about non distribution of Poshahar rice, the allegation which was not proved in course of inquiries. The other allegation regarding irregular distribution of k. oil was also levelled at the instance of Block Pramukh, Bhore which was disposed in course of inquiries. He further submitted that after full inquires this petition was found innocent for the allegations and then a proposal for revocation of inspection were sent to the District Level Section Committee and without considering the said inquiry reports the District Level Section Committee cancelled the licence.

6. The learned Spl.PP appearing on behalf of the DM, Gopalganj and others submitted that the licence of the petitioner was cancelled on the recommendation of DLSC although SDO had recommended for revocation of suspension initially when he first submitted his report.



7 The claims of the learned lawyer of the petitioner are not really substantiated. Although the SDO at one time recommended for revocation of suspension i.e. against his own order, the logic of his actions is not clear. Even the joint inquiry report found the petitioner guilty of committing irregularities in distribution of poshahar rice and K.Oil. There seems to be grounds for cancellation of the license had the DLSC not intervened in the matter. Although, the learned lawyer of the petitioner did not raise any issue on this subject, yet it is a well-known principle that the SDO as a Licensing Authority is the only statutory authority to exercise this statutory power to cancel the license without being directed by any other authority including the superior authority. In this case, the SDO cancelled the license apparently against his own wishes as per direction of the superior authority i.e. the DLSC headed by the DM. Several cases of this nature had been remanded to the licensing authority to pass a fresh order. Although the learned lawyer did not ask for it, yet it seems unfair to deny this benefit to the petitioner on this count. Moreover, this court curiously dismissed the appeal and encouraged the petitioner to file revision on the same subject. Hence a sympathetic consideration is given to the petitioner by remanding this case to the SDO cum Licensing Authority with a direction to pass a fresh order in accordance with the provisions of the PDS (Control) Order, 2001 without being extraneously influenced by any superior authority.



( C. Lalsawta)

Commissioner, Saran Division, Chhapra.