

In The Court of Commissioner, Saran Division, Chapra  
Supply Rev. No. 105/2012  
Raj kishor Sah  
Vrs.  
The sate of Bihar. & Ors.

08.3.2014

ORDER

The instant revision petition is directed against the impugned order passed by District Magistrate , Gopalganj in Supply Appeal. Case No. 12/2011 on 27.02.2012

The brief fact of the case is that the petitioner Rajkishor Sah S/o Late Mathura Sah R/o Village- Majwalia, P.S. – Vijayipur Dist-Gopalganj was a PDS licensee having licence No. 7/2007. The further case is that some villagers filed a written complaint alleging therein that the petitioner used to distribute less quantity of food grain and also less quantity of K.oil. after Charging excess price than the prescribed rate. Thereafter an inquiry was conducted by BSO, Vijayipur on 19.08.2011 and in the said enquiry report, following irregularities were mentioned. 1. Shopkeeper was absent on the day of inquiry 2. Stock and distribution register could not be checked due to absence of shopkeeper. 3. Antodaya consumers , Manish Sah and champa Devi told that only 10kg. wheat and 20 kg rice was given to them. 4. BPL coupon holders, Gita Devi, Srimati Devi, and some others alleged that only 8 kg. Wheat and 12 kg rice was given on higher rate and K. oil was supplied at the rate of Rs. 17.00 per litter in less quantity. This led to issuance of show cause notice to the petitioner by SDO, Hathua. The petitioner filed his show cause reply and on finding the same to be unsatisfactory, the SDO, cancelled the petitioner's licence vide memo No. 443 dated 27.09.2011. Then the petitioner filed an appeal before D.M. Gopalganj vide supply Appeal Case No. 12/2011 and the same was also dismissed vide order dated 27.02.2012

On being aggrieved by and dissatisfied with the aforesaid order of D.M. Gopalganj, the petitioner preferred this revision petition.

Heard the parties.

The learned counsel for the petitioner submitted that the impugned order of learned lower court is against the settled principle of law regarding PDS (control) order 2001. He further said that the SDO, passed the cancellation order on the enquiry report of BSO, vijayipur who only recorded the oral statements of the consumers and petitioner was not given any opportunity to contradict the said oral statement as he was absent during inquiry. He also submitted that some vested interest persons raised false allegations against the petitioner, but the



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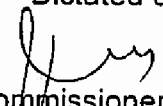
fact in that the statement of Mukhiya and villagers were not recorded. The learned counsel further argued that the impugned order is illegal and against the factual position of the case. He also said that the show cause reply filed by the petitioner should have been considered before passing the cancellation order. The learned D.M also failed to consider , the case properly as an appellate authority. The learned counsel lastly prayed that the impugned order be set aside.

The learned spl. P.p., on the other hand, submitted that there were serious charges like closure of shop and irregularities in distribution of food grain and K. oil on higher price against the petitioner and for such charges his licencee has been cancelled and the same has been upheld by D.M. also.

Considering the facts and circumstance of the case. material on records and pleadings advanced by the learned counsel for the petitioner, it is seen that shop of the petitioner was inspected on the alleged complaint filed by the villagers and the cancellation order was passed on the basis of the inquiry report submitted by the B.S.O. However, the copy of show cause reply available on record shows that the petitioner in his show cause reply refuted the allegations and claimed that the complainants were not his consumers rather some villagers, who got recorded false statements before the enquiry officer due to village politics. He also stated that he used to distribute the grains and K. Oil on prescribed rate and quantity in the presence of vigilance Committee members. He further stated in his show cause reply that only those person whose name were not included in the BPL list are making false allegations against him. In view of the above statement of the petitioner, the SDO should have enquired the matter either by himself or through some other officer in the face of enquiry report and show cause reply furnished by the petitioner so as to arrive at a proper and just decision . The stock and distribution registers are important documents have not been verified during enquiry and it appears that merely on the statements of the villagers, without verifying the veracity of such statements, the action against the petitioner has been taken. The learned D.M. should have considered these facts, as pleaded by the learned counsel for the petitioner that the same was raised before him in appeal but the same was not considered by the learned D.M as appellate authority before passing the impugned order.

For the reasons above, the impugned order can not be sustained and the same is set aside and this revision is allowed.

Dictated & Corrected by me.

  
Commissioner  
Saran Division, Chapra

  
Commissioner,  
Saran Division, Chapra

8/3/14