

**In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 361/2013**

Harendra Sharma

Vrs.

The state of Bihar

ORDER

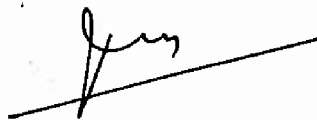
The instant revision is directed against the impugned order passed by District Magistrate, Saran on 19.10.2013 in Supply Appeal No. Case No. 63/2011

The brief facts of the case are that the petitioner Harendra Sharma S/o of Ram Chandra Sharma R/o Village- Ismailchak, P.S.- Sonapur, Dist- Saran was a PDS Licencee. The further case is that Rajeshwar Ram and 90 other consumers of Vill- Ismailchak, Gram panchayat- Gobind chak, Block- Sonapur, Dist- Saran filed a complaint against the PDS dealer before SDO Sonapur regarding the irregularities committed by him in distribution of food grains and K.Oil to the consumers. The SDO, Sonapur in turn got the matter enquired by executive officer, Sonapur. In course of enquiry certain irregularities were found and the matter was reported to the SDO. Thereafter a show cause was asked from the dealer and the SDO on finding the said show cause reply to be misleading, after seeking opinion of BSO Sonapur, suspended the licence and directed the dealer to file second show cause. The dealer filed his reply on which again the opinion of BSO, Sonapur was sought. Thereafter, the said PDS licence of the dealer was cancelled vide memo No. 302/supply dated 24.03.2011. Feeling aggrieved by the said cancellation order of SDO, Sonapur, the petitioner preferred an appeal before D.M., Saran, vide supply Appeal No. 63/2011 which was rejected vide order dated 19.10.2013.

On being aggrieved by and dissatisfied with the order of D.M. dated 19.10.2013, the petitioner preferred this revision before this court.

Heard the parties. ►

The learned counsel appearing on behalf of the petitioner submitted that the impugned order of D.M., Saran is illegal, bad and erroneous as the D.M. as appellate authority ought to have applied his judicial mind that no adverse report had been supplied to the petitioner. He further submitted that the learned D.M. has erred in passing the order that the complainant as well as the consumers attached had filed a petition to him that due to political rivalry false and forged petition had been filed. He further contended that impugned order suffers from many illegalities as the observation of the Hon'ble High Court relating to closure of a shop for a day is not a serious charge to attract cancellation, has not been considered and even the petitioner had submitted the Doctor's prescription relating to his treatment in support of his claim of



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unintentional closure of PDS shops has also not been taken seriously. The learned counsel also referred to a decision of the Hon'ble High Court reported in PLJR 2012 (3) in support of his plea. The learned counsel lastly prayed that the impugned order be set aside.

The learned spl. p.p appearing on behalf of the state submitted that the charges against the petitioner were serious as about 90 consumers have alleged in their written complaint that the petitioner distributed food grains and K.Oil to them in less quantity and on excess price than the prescribed price. The impugned order of D.M. is just and having no illegality hence the same may be upheld.

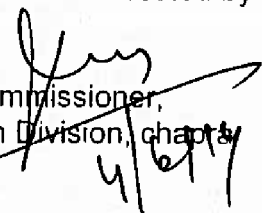
Considering the facts and circumstances of the case, pleadings advanced by the learned counsel for the petitioner and on going through the lower court records, it appears that the main allegations against the petitioner were relating to less distribution of food grains and K.Oil and charging of excess price than the prescribed price from the consumers. Although, the petitioner refuted the alleged charges in his show cause reply, but the licensing authority, the SDO, found the same to be misleading. But the licensing authority the SDO has not recorded any reason as to how the said show cause reply of the petitioner was misleading. Furthermore, the learned counsel relied heavily on the observation of the Hon'ble High Court wherein it has been held that mere closure of shop for a day is not a serious offence to attract cancellation of licence. This plea of the learned counsel has some truth as closure of shop for some exigency can not be treated as a serious offence on the part of PDS dealer. The learned D.M. ought to have looked into this aspect of the case judicially as an appellate authority. But it is obvious that the D.M. simply upheld the cancellation order of SDO without discussing his own findings.

Thus, for the aforesaid reasons, I am constrained to uphold the impugned order of D.M., Saran. Hence, the same is set aside.

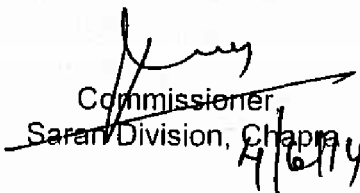
In the result, this revision is allowed.

Dictated & Corrected by me.

Commissioner,
Saran Division, Chapra


4/6/14

Commissioner,
Saran Division, Chapra


4/6/14