

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 30/2013
Ram Bahadur Singh
Vrs.
The State of Bihar and others

04.3.2014

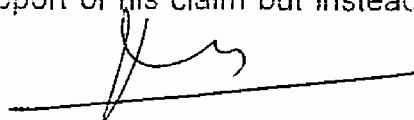
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Gopalganj in Misc.(Supply) Appeal case No. 47/2010 on 14.10.2011

The brief facts of the case are that the petitioner Ram Bahadur Singh S/o Late Ram Janam Singh R/o Vill-Faizullahpur, P.S.- Baikunthpur, Dist-Gopalganj was a PDS licence. The further case is that the PDS shop of the petitioner was inspected on 04.05.2010 at about 9.00 A.M. by a joint team consisting of DSO, Gopalganj and Director, DRDA, Gopalganj. Thereafter a show cause notice was issued to the petitioner for the alleged irregularities found during inspection vide memo No. 3045 dt. 15.05.2010. The petitioner filed his show cause reply on 17.05.2010 stating therein that as he was a sciatica patient and all of a sudden he felt unbearable pain so he after closing his shop went for treatment. However the SDO, Gopalganj on not being satisfied with the said show cause reply suspended the petitioner's licence vide order dt. 20.05.2010 and petitioner was directed to file second show cause reply. The petitioner again submitted his reply, but the licensing authority, the SDO, Gopalganj on finding the same to be unsatisfactory, cancelled the petitioner's licence vide order dt. 05.06.2010. Feeling aggrieved by the said cancellation order, passed by SDO, Gopalganj, the petitioner approached the D.M. Saran by preferring an appeal bearing No. Misc. (Supply) Appeal case No. 47/2010 which was dismissed late on by D.M. vide order dt. 14.10.2011. This led to filing of a writ petition vide CWJC No. 5099/2012 before the Hon'ble High Court which was disposed of on 17.01.2013 with the observations that petitioner can approach the revisional authority. Thus this revision case has come before this Court for disposal.

Heard the parties.

The learned counsel for the petitioner submitted that the impugned order of Collector, Gopalganj is illegal, ultra vires and completely without jurisdiction as the same has been passed in wholly mechanical manner without any proper application of mind. He further submitted that the SDO, Gopalganj without considering the show cause reply filed by the petitioner, stating therein the cause for his absence and also submitted the relevant documentary evidence and registers of stock and distribution in support of his claim but instead of considering



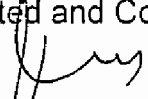
the same held him of violating the terms and condition of licence, firstly suspended the licence and later on cancelled. The learned Collector, Gopalganj also did not consider the show cause reply of the petitioner and held that the order dt. 14.10.2011 passed by SDO, Gopalganj to be proper. He further stated that the petitioner was not a fault if the customers had not lifted the grain which was available in stock and for that he could not have been punished. The learned counsel lastly prayed that the impugned order of Collector is liable to be set aside in view of the facts that nothing was there to suggest that the petitioner was charged for black marketing of grains etc. He has been punished merely for his absence at the time of inspection.


The learned SPL. P.P. simply supported the impugned order and submitted that the same may be upheld.

Considering the facts and circumstances of the case, material on records and arguments advanced by the learned counsel for the petitioner, it is seen that there is no serious charges against the petitioner like black marketing of food grains. He has been charged mainly for his absence during the inspection. Even the stock of lifted gains were found intact and for this he was guilty for not distributing the same amongst the consumers. The petitioner explained regarding those two charges satisfactorily by stating that as he was suffering from sciatica problem and it was due to sudden severe pain he went for his treatment. This reply seems to be acceptable in view of the Doctor's prescription. Regarding second charge of not distributing the lifted grains, the petitioner's stand is that as the consumers did not turn up for that, the same could not have been distributed till the day of inspection and the grains were available in the stock. This statement is also having some truth. But there appears no reasons as to why not to ~~why~~ not those explanation were considered by the licencing authority as well as the appellate authority. It is also worth mentioning here that closed of shop for a day and enquiry made in the back of the delinquent and on that basis action taken against the PDS dealer have been severely criticised by the Hon'ble High Court in several cases. In past relief has also been granted by this Court in some others cases on this score alone.

Thus, for the aforesaid reasons I do not find any justification to uphold the impugned order of D.M. Gopalganj dt.14.10.11 and the same is set aside accordingly and this revision is allowed.

Dictated and Corrected by me.


 Commissioner,
 Saran Division, Chapra
 4/3/2014


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