

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 105/2013
Rajeev Kumar Sharma
Vrs.
The State of Bihar

ORDER

14.3.14

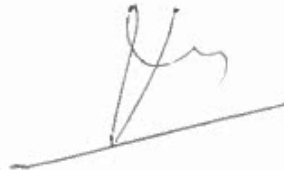
The instant appeal is directed against the impugned order dt. 04.01.2013 passed by District Magistrate, Saran is Supply Appeal No. 148/2012 (Sarswati Sharma Vrs. The state of Bihar)

The brief facts of the case are that M/s Kumar Stores Masharkh K.Oil whole sale licence was cancelled by the D.M. Saran for alleged lapse of K.Oil quota of the PDS dealers of Mashrakh and Panapur blocks as contained in memo No. 107/supply dt.16.07.2011. Feeling aggrieved by the said cancellation order, the present petitioner filed an appeal, bearing Supply Appeal No. 103/2011 before this Court. This Court vide order dt. 05.09.2012 set aside the cancellation order passed by D.M. Saran and raised certain issues to be clarified as the Court observed that it was difficult to arrive at a conclusion in view of the missing links of the whole stories. Thereafter, the present appellant again filed representation before the D.M. Saran, seeking relief in the matter. The learned D.M. while disposing of the said representation vide order dt. 04.01.2013 discussed all the points raised by this Court in its earlier order dt. 05.09.2013 and finally held the appellant to be responsible for violating the terms and conditions of the whole sale K. Oil licence as he wilfully allowed to lapse the K.Oil quota of dealers on the pretext of his mother's illness, thereby, causing loss to the thousand of consumers.

On being aggrieved by and dissatisfied with the aforesaid order of D.M. Saran appellant again preferred an appeal before this Court.

Heard the parties.

The learned counsel appearing on behalf of the appellant at the outset submitted that this Court earlier had set aside the impugned order of D.M. Saran and remanded the matter back to him with certain observations. But the learned D.M. in stead of considering the matter again independently without any prejudice, simply held his earlier order. He further argued that the show cause reply filed by the petitioner earlier stating the whole facts as to how the unforeseen circumstance compelled him to meet family needs by ignoring the business needs and as such the petitioner should not be held responsible for the lapse of K.Oil. But the D.M. passed arbitrary order against the factual aspects of the case.





The learned SPL. P.P. appearing on behalf of the state, submitted that the impugned order dt. 04.01.2013 has been passed by D.M. after discussing all the points raised in the earlier order by this Court in the matter, so the impugned order is cogent, reasoned having no illegality and hence the same may be upheld.

Considering the facts and circumstance of the case, material available on records and on going through the impugned orders of D.M. Saran as well as the earlier order dt. 05.09.2012 passing by the then commissioner, it is seen that the only charge against the petitioner is that he being the proprietor of the firm M/s Kumar stores, Mashrakh allowed to lapse the K.Oil quota thereby causing loss to the consumers and in turn violated the conditions of the whole sale licence of K.Oil. It is also seen that the petitioner claimed that he informed the authority concerned in writing for making alternative arrangement for lifting of K. Oil quota allotted to his firm, but it was due to insensitiveness and inaction on the part of concerned authority, the K.Oil quota lapsed. However, this Court was pleased to set aside the earlier order of D.M. Saran vide order dt. 05.09.2012 with certain observations to the extent that some important points were needed to be clarified. The current impugned order of D.M. although discussed all the points but there seems that same important points left untouched. The first point as to whether the punishment meted to the petitioner by way of cancelling the licence is in conformity with the gravity of his alleged failure of lifting the quota of K.Oil allotted to his firm. The reason given by D.M. is that this action led to lapse of K. Oil to which caused immense difficulty/trouble to consumers. But I find that this kind of misconduct at the level of K. Oil whole seller is certainly not of such a nature that warrants the cancellation of the licence. The explanation given by the petitioner for not lifting the K. Oil is also seems to have some force in view of the documents submitted by the, petitioner that he was badly engaged in the treatment of his mother.

For the reasons discussed above, I am constrained to uphold the impugned order. Accordingly the same is set aside and this appeal is allowed.

Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra
14/3/14


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Saran Division, Chapra
14/3/14