

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHHAPRA

Supply Revision No.384/2007

Sukhdeo Ram Petitioner
Vrs
The State of Bihar & Others Respondents

ORDER

30.03.2013

The instant revision application is directed against the impugned order passed by D.M. Siwan on 30.03.2007 in Supply Appeal case No. 30/2006.

2. The brief facts of the case are that the petitioner Sukhdeo Ram s/o Ram Narayan Ram r/o Vill-Balua, Block-Maharajganj, Dist-Siwan was a PDS licence holder having licence No. 08/92. The petitioner's PDS shop was inspected by BSO, Maharajganj following a complaint relating to irregularities received in the District Supply Helpline, Siwan. Thereafter acting on the said enquiry report, the licence of the petitioner was placed under suspension for the alleged irregularities vide Memo No. 186/c dt. 01.02.2006 by SDO, Maharajganj and petitioner was also directed to submit show cause reply and also to make available the registers relating to distribution and allotment and also the cash memos for the period from January, 05 to December 05. In compliance to that, the petitioner filed his show cause reply on 08.02.2006. Then while reviewing the said show cause reply it was found to be unsatisfactory on the grounds that gross irregularities have been committed in the distribution of Govt. controlled articles and the said misconduct was treated as against the provision of Bihar Trade Articles (Licence Unification Control) Order 1984. And on that basis the petitioner's PDS licence No. 08/92 was cancelled with immediate effect vide Memo No.522 dt. 22.03.2006 of SDO, Maharajganj. Aggrieved by the said cancellation order, the petitioner preferred an appeal before D.M. Siwan which

was dismissed vide order dt.30.03.2007. This led to filing of the instant revision before this Court.

3. Heard the parties.

4. The learned counsel appearing on behalf of the petitioner submitted that the licence of the petitioner was cancelled on the basis of the adverse report submitted by BSO, Maharajganj but the copy of the said adverse report was not submitted to the petitioner. Even the learned D.M. Siwan has not applied his normal and judicious mind before passing the impugned order and has taken a vindictive action against the petitioner with preoccupied mind. He further contended that although it was mentioned in the cancellation order issued by SDO that the licence No. 08/92 of PDS shop agreement was cancelled following the show cause reply found to be complete unsatisfactory, but the truth is that neither any copy of adverse report was served on the petitioner nor any show cause was asked for the alleged charges. The learned counsel further arguing his case submitted in detail as to how the cancellation order is wrong and arbitrary in view of the observations made by Hon'ble High Court in several cases for such allegation which are equal to the allegation levelled against the petitioner. The learned counsel also strongly forwarded the view that cancellation of licence without following proper procedure and giving any notice of show cause referring the violation of the terms of agreement or opportunity of hearing is violative of Article 14 of the Constitution and in view of that the said cancellation order is illegal. Thus the impugned order stands illegal and deserves to be quashed.

5. The learned Spl. P.P. appearing on behalf of the state submitted that the petitioner was a licensee of PDS shop bearing licence No.08/92. PDS shop was inspected by the BDO cum BSO of Maharajganj on 29.1.06 at one PM and found the PDS shop was closed without giving prior information, price cum stock Board not displayed outside the shop. Due to closure of the various registers could not be inspected and checked. Consumers were present at the time of inspection and complained that K.oil was not distributed by the petitioner regularly. Inspecting officer recorded the statements of consumers attached to

the PDS shop. They complained that petitioner had distributed k.oil in the month of January, 2005 after a gap of four months. During the whole calendar year of 2005 the petitioner distributed K.oil only two times. The petitioner used to misbehave with the consumers. The enquiry officer recommended for the strong action against the petitioner. The learned SDO Maharajganj issued show cause notice on 1.2.2006 but neither he submitted any reply or show cause notice nor submitted any Register for inspection. Being dissatisfied with the behaviour of petitioner the learned SDO cancelled his PDS licence on 22.3.06. The petitioner being aggrieved with the order he filed an appeal before the DM Siwan. The learned D.M. Siwan after hearing the parties passed cogent and reasoned order. He also cited in his order a Supreme Court Judgment reported in PUCL vs Uoi and others civil original jurisdiction writ petition (civil) No. 196/2001. There is no infirmity in his order and also there is no merit in this revision.

6. In spite of the claim of the petitioner, available records and circumstances indicate that show cause was issued to the licence holder, but he did not reply. There is no indication that the PDS dealer asked for a copy of the inquiry report and asked to be heard. In that case he should have been given what he asked for. But there is no proof that he asked for them and there is no evidence pointing towards that direction. So it cannot be said that the principle of natural justice has been violated in the process. I do not find any illegality in the impugned orders to warrant their quashing. Accordingly, the revision is dismissed.



(C.Lalsawta)

Commissioner, Saran Division, Chhapra.