

In The Court of Commissioner, Saran Division, Chapra

Supply Revision No. 124/2013

Gautam Prasad

Vrs.

State of Bihar

ORDER

30.01.2012 The instant revision application is directed against the impugned order passed by D.M., Siwan in Supply Appeal Case No. 31/2011-12 on 04.02.2012.

The brief facts of the case are that the petitioner Gautam Prasad S/o Late Mahadeo Prasad R/o Village- Sarauti, P.S.- Pachrukhi, Dist- Siwan was a PDS Licencee. Further case is that BSO, Pachrukhi had reported to SDO, Siwan vide letter No. 138 dated 24.12.2010 that the dealer had not deposited the required money for lifting of BPL grains through pay-in-slip as a result of that the consumers could not get the food grains for the month and no reply filed by him for the show cause notice issued against him by SDO for the said irregularity. Again BSO made a report in letter No. 13 dated 11.02.2011 that the said dealer had not deposited the money through pay-in-slip for lifting the Antodaya and BPL grains for the month of March-2011 and the show cause notice issued to the petitioner for his said lapse was not replied. Furthermore, the BSO again vide letter No. 31 dated 16.04.2011 reported to the SDO that the dealer had distributed K.Oil only to 132 consumers in March- 2011 and K.Oil was not supplied to remaining 428 consumers. Thereafter a detailed inquiry was ordered by SDO to be conducted by BSO Pachrukhi who after inquiry reported to have been found the following irregularities like: K.Oil was lifted for the month of March- 2011 but the same was distributed only amongst 132 coupon holders and remaining 428 consumers were left out, the petitioner deliberately shifted his business premise to another place without obtaining any prior permission of the authority, some of the consumers alleged that the dealer hardly found present in his shop as such they had to face lot of difficulties, the K.Oil meant for the month of April- 2011 was not lifted till 28.04.2011 and no stock register and distribution register were shown even on demand. This led to serving of a show cause notice to the petitioner by the SDO and when the petitioner failed to furnish the show cause reply, his license was cancelled by SDO, Siwan, the licensing authority vide order contained in Memo No. 431/c dated 28.04.2011. Feeling aggrieved by the said order, the petitioner preferred an appeal case before D.M., Siwan and the said appeal was dismissed vide order dated 04.02.2012.

On being aggrieved by and dissatisfied with the aforesaid order of D.M., Siwan, the petitioner has preferred the instant revision before this court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner submitted that the impugned order of D.M. is illegal and arbitrary as the same is contrary to the facts and circumstances of the case. He submitted that the real facts is that the petitioner suddenly became ill in the month of March- 2011 and became unable to run the PDS shop and for that he informed in writing to the SDO on 23.03.2011 through the concerned BSO and also requested



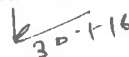
for granting him three months leave. He further submitted that the said application of the petitioner was duly received by the SDO, Siwan on 23.03.2011 and no action was taken on the said application till he came to know that his said license was cancelled on 30.04.2011. He also argued that there was no complaint by any consumers against the petitioner nor the petitioner was ever charged for violating the terms and conditions of PDS license but these facts were not considered by the licensing authority as well as by the appellate authority while passing the order. He further argued that the learned lower court without providing the opportunity of personal hearing cancelled the petitioner's license besides he also failed to appreciate the facts of non-service of any show cause notice to the petitioner as well as ill-health of the petitioner. Regarding the alleged irregularities found during inspection of the PDS shop of the petitioner, the learned counsel submitted that the petitioner could not lift the food grains due to non-availability of the same. He further submitted that some of the consumers had given in writing regarding the fair distribution of the petitioner and the authority concerned without considering the problems faced by the petitioner, cancelled the license as such the said cancellation order as well as appellate order is fit to be set aside.

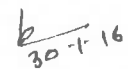
The learned Spl. P.P. appearing on behalf of the state submitted that the impugned order is reasoned, cogent and proper having no illegality as such the same is fit to be upheld and this revision petition being devoid of any merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, arguments advanced by the learned counsel for the petitioner and on perusal of the impugned order it appears that the petitioner's PDS license has been cancelled mainly on the ground of non-depositing of pay-in-slip for the lifting of food grains for the month of March- 2011 as well as for distribution of K.Oil amongst 132 consumers only leaving behind 428 consumers besides the failure of the petitioner to furnish any show cause reply for the reported irregularities what he was asked for to submit for the reported irregularities. However, the claim of the petitioner is that he had informed the SDO, Siwan through BSO, Pachrukhi in writing that as he was inflicted with the disease and he could not run the PDS shop so he should be allowed leave and as such food grains and K.Oil were not lifted till then for the month of March- 2011. It is stated that the said application for grant of leave was submitted in the office of the SDO on 23.03.2011 but no action was taken on that. This averment of the petitioner seems to be true to some extent but this can not be of any help to the petitioner in view of the other serious charges of irregularities found during inspection. It is seen that the licensing authority as well as the appellate court has discussed each and every aspects of the case at length before arriving at the final findings of facts. On the other hand, the learned counsel for the petitioner failed to point out any specific illegality or infirmity in the said order so as to attract any interference at this stage.

Thus, for the aforementioned reasons, the impugned order of D.M., Siwan dated 04.02.2012 is upheld and the instant revision petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra


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