

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 394/2007
Arun Kumar Singh
Vrs.
The State of Bihar
ORDER

25.04.2016.

The instant revision petition is directed against the impugned order passed by D.M., Saran in Supply Appeal No. 06/2007 on 13.08.2007.

The brief facts of the case are that the petitioner Arun Kumar Singh S/o Rajeshwar Singh R/o Village- Hasanpur, P.S.- Nayagaon Dist- Saran was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected by BSO, Sonapur on 27.07.2006 and in course of inspection certain irregularities were found like: irregular distribution of K.Oil, charging of excess price for K.Oil then the prescribed price, behaving improperly with the consumers, non-cooperation in the inspection work, non-displaying of notice board and non-distribution of K.Oil for the month of July 2006 till next 15 days even after lifting the same. Thereafter, the matter was reported to the SDO, Sonapur who in turn vide Memo No. 1619/conf. dated 01.08.2006 served a show cause notice to the petitioner seeking reply on the alleged charges after suspending the licence. The petitioner filed his show cause reply refuting all the alleged charges and, thereafter, a joint report of LEO and BSO, Sonapur was called for and the said report was submitted on 12.12.2006 in which it was reported that the alleged charges were found true. Then, the SDO, Sonapur, acting on the said report, finally cancelled the said PDS licence of the petitioner vide order contained in Memo No. 2669/conf. dated 26.12.2006. Feeling aggrieved by the said order, the petitioner preferred an appeal case vide Supply Appeal No. 06/2007 before D.M., Saran which was dismissed vide order dated 13.08.2007. This led to filing of the instant revision case before this court but the said case was dismissed in default by this court vide order dated 02.02.2010. Thereafter, the petitioner filed a belated petition for restoration of the said revision case on the ground that as he was deeply engaged in the treatment of his ailing father so he could not prefer the restoration petition well within the prescribed time and subsequently he got also involved in the treatment of his ailing wife and these were the reasons stated to be the main cause for preferring restoration petition belatedly and he also annexed the copies of medical prescription and certificate issued by the concerned doctors in support of his claims. This court after considering the matter finally allowed the said restoration petition vide order dated 14.12.2015 and accordingly the revision case restored to its original record and subsequently taken up for final hearing on merit.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner submitted in details about the entire course of events leading to cancellation of the petitioner's PDS licence. He further submitted that there was no complaint against the petitioner from any consumers regarding any irregularity in distribution of food grains and K.Oil despite his licence has been cancelled on vague charges. He also submitted that all the alleged charges of irregularities stated to have been found against the petitioner becomes invalid and worth no consideration as the inquiry officer had never visited the business premises of the petitioner rather, he actually had visited the shop of the petitioner's father and the inquiry officer wrongly held that the petitioner and his father's PDS shop were being run from a common place. The learned counsel further argued that although, the petitioner had filed his show cause reply before the SDO, Sonapur supported by necessary documents in support thereof but the same were not taken into consideration and his said licence was suspended first and later on

cancelled. He also contended that as the inquiry report itself did not show neither the name of the person nor their statements to the effect that any alleged irregularities committed by the petitioner in running the PDS shop then on this ground alone the impugned order of SDO, Sonapur was fit to be set aside. He further submitted that even the appellate court did not consider the whole material facts of the case and without recording any reasons for his conclusion, passed the impugned order as such the appellate order being non-speaking, non-reasoned and arbitrary is fit to be set aside. He further clarified that actually the petitioners shop was located in plot No. 520 and his father's shop was on Plot No. 515 but the concerned authorities wrongly held that both father and son used to run their PDS shop from the common premise, thereby violated the terms and conditions of PDS licence. He lastly submitted that as the petitioner has already suffered a lot due to harsh action of the SDO, for unwarranted reasons, the justice must be done to him so that he can ensure his livelihood as he has got no other means to rear his family.

The learned Spl. P.P. appearing on behalf of the state submitted that the impugned order is just and proper, the same 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, pleadings made by the learned counsel for the parties and on perusal of lower court records as well as the impugned order, it is seen that the petitioner's licence has been cancelled mainly on the ground that the duo, father and sons, both being PDS licencee in the same Gram Panchayat used to run their shops from the same premises besides some other alleged charges of taking excess prices for K.Oil. The petitioner's contention is that the said inquiry officer never visited the business premises rather he visited the shop of his father, which was being run in different plot and at some distance from the petitioner's shop and drew the conclusion wrongly that both shops were being run from the same premises. His other contention is that as there was no complaint against the petitioner, nor the inquiry officer testified any consumers attached with the PDS shop of the petitioner during inspection, it was entirely on wrong assumptions they formulated the alleged charges which were irrelevant and not worth consideration. He further submitted that neither the SDO, Sonapur, nor the D.M., Saran had considered the whole facts of the case rationally before arriving at the final findings of fact or before passing the order. I find ensure force in the said submission of the petitioner's counsel in view of the fact that the impugned order of D.M., Saran dated 10.08.2007 is a succinct order in which it has been simply mentioned that the earlier order passed in Supply Appeal No. 05/2007 (Rajeshwar Prasad Singh Vrs. State of Bihar.) would apply in this case.

Thus, it appears that the learned SDO, Sonapur as well as D.M. Saran did not consider the relevant facts of the case in its true perspective before passing the order. As such the order of SDO, Sonapur as well as impugned order of D.M. Saran are set aside and the case is remitted back to SDO, Sonapur for consideration in the light of observation as made above.

With the aforesaid observation and directions, this revision petition is disposed of.

Dictated and Corrected by me.

25-3-16
Commissioner,
Saran Division, Chapra

25-3-16
Commissioner,
Saran Division, Chapra