

In The Court of Commissioner, Saran Division, Chapra

Supply Revision No. 313/2014

Krishna Manjhi

Vrs.

The State of Bihar

ORDER

19.01.2016. - The instant revision petition is directed against the impugned order passed by D.M. Siwan in Supply Appeal case No. 62/2013-14 on 10.10.2014.

The brief facts of the case are that the petitioner Krishna Manjhi S/o Raghuni Manjhi R/o Vill-Kothuwan Sarangpur, Block-Daraunda, Dist-Siwan was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected by the SDO, Maharajganj on 21.04.2013 and in course of inspection following irregularities were found like: shop was found closed and the dealer was absent, notice board and rate chart were not maintained, closure of PDS shops on Monday was ended by the Govt. despite on the notice it was mentioned that the shop would remain closed on Monday, food grains lifted on 19.04.2013 was not distributed, several consumers attached with the PDS shop of the petitioner alleged of getting only one month ration after taking of two months coupons and only 10 kg wheat and 12 kg rice were given to them after taking rupees 170/- and even the k.oil was also distributed in less quality after taking higher price. Thereafter, a show cause vide memo No. 175 dt. 22.04.2013 was issued to the petitioner by SDO for the alleged irregularities found during inspection. In compliance to the said show cause notice, the petitioner filed his show cause reply refuting all the charges and also filed copies of distribution registers of k.oil and food grains in support thereto. But the learned SDO on finding that the petitioner failed to contradict the said irregularities through any solid evidence, cancelled the license vide order dt. 22.06.2013. Feeling aggrieved by the order of SDO, Maharajganj, the petitioner preferred an appeal case before D.M. Siwan vide Supply Appeal case No. 62/2013-14 which was subsequently dismissed vide order dt. 10.10.2014.

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

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 his PDS license. He further submitted that, although, he had explained in his show cause reply that his shop was closed as he had to settle his daughter's marriage and he also informed the beneficiaries about that but this fact was not considered by the SDO. He also claimed that the petitioner had also written in his show cause reply about other allegations but the same were not considered by the licensing authority. The learned counsel also argued that the learned D.M. also failed to appreciate the material available on the record and passed suo-motto order without applying judicial mind as such the impugned order must be set aside. He also submitted that even some of the decisions of Hon'ble High Court (PLJR-1991 Vol-1 page 635-37: CWJC No. 19335/2011, dt. 06.03.13) placed before D.M. Siwan were not considered despite the fact that the learned D.M. ought to have considered the same. He lastly submitted that the petitioner being a dealer belonging to S.C. category having no other means of livelihood and against whom no allegations was found in the past nor punished previously for any offence. At least this facts need to be considered by this Court before passing the order and the impugned order must be set aside.

✓

The learned Spl. P.P. appearing on behalf of the D.M. Siwan, on the other hand supported the impugned order by saying that the same is reasoned and proper having no scope of any interference.

Considering the facts and circumstances of the case, material available on records and on perusal of the impugned order, the following position emerges.

So far as the allegation relating to closure of PDS shop is concerned it is not a serious offence to entail the cancellation of PDS license. Regarding other allegation that despite lifting of food grains meant for month January on 19.04.13, the same was not disputed and for that the petitioner has mentioned in his show cause reply. " यह कि सामानों को उठा कर गोदाम में लाने के बाद मैं अपने पोषित क्षेत्र के उपभोक्ताओं को खबर कर दिया था। प्रातः में जो लोग आये अनलोगो का वितरण करके मैं गया था। दुसरे दिन से लगातार मैं सामानों का वितरण किया हूँ। सुलभ प्रसंग हेतु वितरण पंजी की छयाप्रति श्रीमान के अवलोकनार्थ समर्पित कर रहा हूँ जिसके अवलोकन से स्पष्ट हो जायेगा कि मेरे द्वारा अनाज का वितरण किया गया है।"

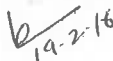
Other allegation against the petitioner was that after taking two months coupons he distributed the grains for one month and also on higher price and also of distributed less quality of k.oil then the prescribed limit. From the show cause notice issued by SDO vide memo No.175 dt. 22.04.2013 wherein it was mentioned that the said allegation are based on the statements of consumers but it appear from the said show cause notice that the copies of said statement of the consumers were not supplied to the petitioner alongwith the show cause notice. On the other hand the petitioner in his show cause reply mentioned that "यह कि मैं विभागीय निवेश के ऑफिस में बीपीएल/अन्वयोदय के लाभुकों को उचित मुल्य एवं निर्धारित मात्रा के अनुसार अनाज का वितरण करता हूँ। कुछ उपभोक्ता अनाज अधिक मांगते है श्रीमान जी मैं नही देता हूँ। इसलिए वे लोरा गलत बयान दिये होंगे। यह कि मार्च माह में तीन लीटर तथा अन्य माह में पौने तीन लीटर किरासन तेल का वितरण किया हूँ। पौने तीन लीटर का दाम 46 रुपया 44 पैसा तथा मार्च में तीन लीटर का दाम 50. 67 पैसा लिया हूँ जिसकी पुष्टि उपभोक्ता द्वारा की गयी है।"

Thus, it appears that the petitioner had denied the allegations reportedly found during inspection through his show cause reply but it is also seen that the same has not been considered properly either by the licensing authority, the SDO or by D.M. Siwan.

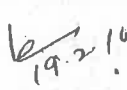
For the aforementioned reasons, the impugned order is not sustainable and hence the same is set aside.

In the result this revision petition is allowed.

Dictated and Corrected by me.

  
19.2.16  
Commissioner,

Saran Division, Chapra

  
19.2.16  
Commissioner,  
Saran Division, Chapra