

**In The Court of Commissioner, Saran Division, Chapra  
Supply Revision case No. 211/2012**

**Irfan Ali**

**Vrs.**

**The State of Bihar**

**ORDER**

13.06.2015 The instant revision application is directed against the impugned order passed by District Magistrate, Siwan in Supply Appeal Case No.81/2007-08 on 18.04.2012.

The brief facts of the case are that the petitioner Irfan Ali, S/o Md. Ismail R/o Shekh Mohalla, P.S. Siwan Town, Dist- Siwan was a P.D.S licensee (Thela Vendor) and his licence No. Was 1206/85. Further case is that Executive Magistrate, Siwan and Supply Inspector, Siwan town in a joint enquiry came to know that the said Thela Vendor did not distribute the K.Oil to the examinees of Unani Medical College, Examination Centre, Siwan during the month of March,2007 and accordingly, the matter was reported to the S.D.O, Siwan with a recommendation for suitable action. Thereafter the S.D.O vide Memo No. 270/ Supply dated 03.04.07 served a show cause notice to the petitioner. The petitioner filed his show cause reply stating therein that as he suddenly became ill on 22.03.07. he could not distribute the K. Oil and subsequently when he became fit he distributed the K.Oil amongst the examinees and in support of that plea he also annexed the doctor's prescription under whom he had been treated. But the learned S.D.O, on finding the said show cause reply to be unsatisfactory, cancelled the Thela Vendor Licence vide. Memo No. 443/Supply dt. 11.06.07. Feeling aggrieved by the said order of S.D.O, the petitioner approached the D.M. Siwan in appeal but the said appeal was dismissed vide order dt. 18.04.12 and after that the petitioner preferred this revision case.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner submitted that although, petitioner litted 390 litres of K.Oil for distributing the same amongst the examinees but due to suddin illness he could not distribute the K.Oil on 22.03.07 to 23.03.07 but the same was distributed on 26.03.07. He further submitted that without any complain from the examinees, the magistrate submitted a collusive report against the petitioner. He further argued that although petitioner denied all the charges, the S.D.O cancelled the licence. The appellate court also did not consider the fact and certificate granted by the principle of the college relating to distribution of K.Oil by the petitioner and his appeal petition was dismissed. The learned counsel lastly prayed that the petitioner being a poor man having only source of livelihood, his revision petition be allowed.

The learned SPL.P.P. appearing on behalf of the D.M. Siwan on the other hand, supported the impugned order and stated that this revision petition being devoid of merit, is fit to be dismissed.

Considering the facts and circumstances of the case, material on records and on going through the impugned order, it is seen that the petitioner's Thela Vendor



licence was cancelled by the licensing authority, the S.D.O on the report of the inquiry conducted by Executive Magistrate and Supply Inspector that the petitioner did not distribute the K.Oil amongst the examinees which was lifted by him for the said purpose. Obviously, this may be is a serious misconduct on the part of the petitioner which certainly had caused inconvenience to the examinees but this can not be a ground for cancellation of licence. Although, the petitioner claims that he suddenly became ill, so he could not distribute the K. Oil, this plea of petitioner is prima-facie seems to be acceptable in view of the material available on record. It is also seen in the record that the petitioner distributed the k-oil with little delay amongst the examinees and he also produced a certificate issued by the principle of the said collage but this proof was not considered by SDO. In fact this evidence must have been considered by the licencing authority before passing the order. Even the appellate authority the D.M. also did not consider this important point in appeal. Thus, for the aforementioned reasons the cancellation of Thela vendor lincence seems to be harsh.

For the aforesaid reasons, the impugned order of the D.M. Siwan is not sustainable and hence the same is set aside. Accordingly this revision petition is allowed.

Dictated and Corrected by me.

13.6.15  
Commissioner,  
Saran Division, chapra

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Saran Division, Chapra