

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 114/2014
Satyanarain Prasad
Vrs.
The State of Bihar
ORDER

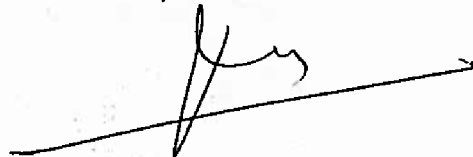
The instant revision application is directed against the impugned order of District Magistrate, Saran passed on 19.10.2013 in Supply Appeal Case No. 14/2012

The brief facts of the case are that Satyanarain Prasad S/o Late Rajendra Prasad R/o Village- Barbey, P.S.- Dariapur, Dist- Saran was a PDS licensee, having licence No. 113/2007. The PDS shop of the petitioner was inspected by Md. Rashid Alam, OSD, Food and Consumer protection deptt. Patna on 19.10.2011 and accordingly submitted his enquiry report to the deptt. In the said report following irregularities were reported to have been found: (1) shop was found to be closed (2) stock and price list were not displayed. (3) Names of beneficiaries were not displayed. (4) Joint sample of food grains were not displayed. (5) the coupons from the July 2011 till the day of inspection were available with the consumers (6) some consumers alleged that the dealer kept the coupons at the time of distribution of grains and K.Oil of the month of June 2011. After that the SDO Sonapur vide memo No. 1213 dated 26.12.2011 asked show cause from the dealer in respect of above irregularities as reported by the inquiry officer. The petitioner filed his show cause reply denying all the charges levelled against him and the SDO, Sonapur after obtaining opinion of BSO, Sonapur, the said show cause reply was rejected and the PDS Licence was cancelled vide order contained in memo No. 59/Supply dated 17.01.2012. Feeling aggrieved by the said order, the petitioner filed an appeal before D.M., Saran and during the pendency of the said appeal case, he also approached the Hon'ble High Court vide CWJC No. 3681/2013 and it was on the basis of the direction contained in the order dated 13.03.2013 in the said with, the D.M. Saran disposed the appeal case of the petition vide order dated 19.10.2013.

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

Heard the parties.

The learned counsel appearing on behalf of the petitioner submitted that the impugned order of the lower court is bad and illegal in the eyes of law. He further submitted that the shop was not closed at the time of inspection as such this allegation is wrong and the fact is that the shop was opened on 18.10.2011 till the time of closing that is 2 P.M. He also submitted that the other allegations were also not true because the complainant Dharamnath Rai, Manoi Rai, Khalifa Rai and Sunil Rai are not the consumers of the petitioner and the Sudist Rai is his enemy as such he did not lift the grains from the petitioner's shop and his stock was



available. The learned counsel also stated that coupons received from consumers after distributing the articles were deposited in the office and only after that the allotment of food grains and K.Oil is sanctioned for the next month, so the allegations that the petitioner kept the coupon is completely wrong. He further submitted that sheonath Rai, Bhagwan Rai, Paltu Rai, Shekher Sharma, Lal Babu Rai and Harendra Rai, all these persons made a false complaint due to ill motive, village politics and Panchayat elections. The learned counsel further argued that the petitioner submitted all the relevant papers alongwith his show cause reply in order to disprove the allegations levelled against him, before the SDO, Sonapur. But the SDO, Sonapur without hearing the petitioner, cancelled the petitioner's licence which amounts to violation of the Principle of natural justice. The learned Collector, also without considering the material facts of the case, dismissed the appeal which is also against law. The learned counsel lastly prayed that the impugned order be set aside.

The learned spl. p.p. submitted that the impugned order of D.M., Saran is cogent and reasoned as such the same may be upheld and this revision case having no merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records and on going through the arguments forwarded by the learned counsel, it appears that the petitioner's PDS Licence has been cancelled on the charges of alleged irregularities as reported by the inquiry officer of the deptt. It is also seen that the learned SDO, Sonapur before cancelling the licence asked show cause from the petitioner. However, the petitioner claims that as he had refuted all the charges alleged to have been found against him during inspection, supported by documentary evidence, the same was not considered and even he was not afforded any opportunity of personal hearing. I find that on this point alone, the cancellation order of SDO, Sonapur, becomes arbitrary. Even the learned D.M., Saran acting as appellate authority, did not bother to look into matter with an open mind so as to arrive at the correct findings of fact. From the perusal of the record it is also seen that the learned SDO, Sonapur did not take pain to re-enquire the matter what he should have done in view of the facts explained by the petitioner in his show cause reply wherein he completely controverted all the alleged charges of irregularities levelled against him. I find that the learned Collector has passed the order in haste without considering the factual matrix of the case.

For the aforesaid reasons, the impugned order of D.M., Saran dated 19.10.2013 is not sustainable. Hence, the same is set aside accordingly.

In the result, this revision is allowed.

Dictated & Corrected by me

Commissioner,
Saran Division, Chapra

Commissioner,
Saran Division, Chapra

4/6/14