

In The Court of Commissioner, Saran Division, Chapra

Supply Rev. No. 153/2014

Hem Narayan Singh

Vrs.

The State of Bihar

ORDER

The instant revision application is directed against the impugned order passed by the D.M., Saran dated 27.03.2014 in Supply Appeal No. 15/2013

The brief facts of the case are that the petitioner Hem Narayan Singh S/o Late Singhasan Singh R/o Village- Karn Kudariya, P.S.- Masirakh, Dist – Saran was a PDS licensee, having licence No. 11/2007. The further case is that the said licence of the petitioner was cancelled by the SDO, Marhaura vide memo No. 188 dated 13.01.2011 for alleged charges of irregularities. This led to filing of an appeal case before D.M., Saran which was also dismissed vide order dated 10.04.2011. Thereafter, the petitioner preferred a revision case before this court vide supply Revision No. 32/2011 and the said revision case was disposed of by this court by remitting the matter back to the licensing authority, the SDO by setting aside the earlier order of cancellation passed by SDO and subsequent appellate order of D.M., Saran with categorical observation vide order dated 29.07.2011. This led to filing of a representation before SDO Marhaura with a prayer to restore the PDS licence but the SDO, when refused to do so as he rejected the said prayer and upheld his earlier order of cancellation of licence. Thereafter the petitioner again approached the court of D.M., Saran in Appeal vide 15/2013 and the said appeal was dismissed vide order dated 27.03.2014. Feeling aggrieved by the said order of D.M. Saran, the petitioner has again come before this court in its revisional jurisdiction.

Heard the learned counsel for the petitioner who pleaded his case at the time of filing of this case and he further pressed on the point that this case is an unique example where the clear order of the superior authority has been blatantly flouted by the SDO, the licensing authority with an ulterior motive and put the petitioner to suffer.

Considering the facts and circumstances of the case, points raised in the memorandum of revision petition and annexure appended thereto as well as the remand order of this court and subsequent order of SDO, Marhaura and D.M., Saran, it is quite apparent that the petitioner has been made victim of the apathy and callousness of the authorities concerned who instead of considering the matter in its true perspective, acted with a view to harass the petitioner. I find that this court in its earlier order dated 29.07.2011 after carefully examining all the material facts. Had passed a reasoned and speaking order wherein


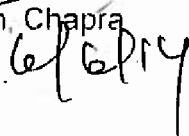


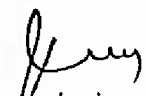
the cancellation order of PDS licence of the petitioner dated 13.01.2011 of SDO, Marhaura and appellate order of D.M., Saran dated 10.04.2011 were set aside and the matter was remanded back to the SDO, Marhaura for fresh consideration and for passing a reasoned order in the light of observation made in accordance with law preferably within a period of two months from the date of receipt production of the copy of this order. However, the SDO, kept the matter pending for about two years for unknown reason and finally upheld his earlier order of cancellation. It is highly surprising that as to how the SDO, Marhaura was justified in upholding his earlier order once the same was set aside by the revisional authority. It is settled law that once an order is set aside in appeal or revision the same order can not be revived until and unless the same is warranted on the basis of some cogent and valid facts and materials which were left untouched in earlier order. In the second order of SDO dated 26.02.2013 there is no such new findings rather he tried to justified his earlier findings which is not relevant now as the same was set aside earlier. On this score alone the impugned order of SDO dated 26.02.2013 becomes illegal and arbitrary. I also find that why the appellate authority, the D.M. did not consider the relevant facts for the second time. It also appears that this is an example of perpetuating case with a view to harass a low keyed PDS dealer for his no apparent fault. It seems to me that the then SDO, just in order to divert the attention of his superior authority for lapses on his part in releasing the allotment of K.Oil timely shifted everything on the petty PDS dealers. Such action of a licensing authority is not commendable.

For the reasons aforementioned, I have no hesitation in holding that a subtle attempt has been made for harassment of the petitioner by firstly cancelling his licence for his no grave misdeeds and when the said order is set aside by the revisional court, the same authority again justifies his earlier order, against the settled principle of law.

In the result, the fresh order of SDO, Marhaura as contained in memo No. 490 dated 26.02.2013 and appellate order of D.M., Saran dated 27.03.2014 are set aside and this revision is allowed accordingly. The SDO, Marhaura is directed further to comply with the order within four weeks from the date of receipt /production of the copy of this order as the petitioner has already suffered a lot.

Dictated & Corrected by me.


Commissioner
Saran Division, Chapra



Commissioner
Saran Division, Chapra
