

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 290/2008
Surendra Prasad
Vrs.
State of Bihar & Ors.
ORDER

06.02.2016 - The instant revision petition is directed against the impugned order passed by D.M., Saran in Supply Appeal No. 27/2008 on 27.09.2008.

The brief facts of the case are that the petitioner Surendra Prasad S/o Late Dipan Prasad R/o Mohalla-Imamganj, P.S.- Chapra Town Dist- Saran was a PDS Licencee. Further case is that the said PDS shop of the petitioner was inspected by the SDO, Chapra Sadar on 07.06.2008 wherein it was found that the shop was closed and the local people of the area also informed that the said shop remains closed always. Thereafter, a show cause was asked from the petitioner with direction to produce stock Register, cash memos and distribution register and unit register by the licensing authority vide Memo No. 935 dated 07.06.2008. The petitioner filed his show cause reply but the SDO on finding that the said PDS shop alongwith two other PDS shop were being run by one person as the distribution register of all these three shops were maintained by one person, he finally cancelled the licence holding that this action is violation of the terms and conditions of licence vide Memo No. 1033 dated 18.06.2008. Feeling aggrieved by the said order, the petitioner preferred an appeal being Supply Appeal No. 27/2008 before D.M., Saran which was dismissed vide order dated 27.09.2008. This led to filing of the instant revision case before this court.

Heard the learned counsel for the parties.

The learned counsel for the petitioner submitted that the cancellation order of SDO is illegal, unjust, improper, hasty and mala fide inasmuch as the petitioner's show cause reply was not considered at all and even he was not afforded any opportunity of hearing. He further argued that the appellate authority also did not consider the entire facts of the case properly and also overlooked the well settled principle and decision cited by the petitioner at the time of hearing. He further submitted that the learned lower court should have held that non-production of documents and closure of the shop at the time of enquiry by the inspecting officer can not be a ground for cancellation of licence and the licensing authority has not acted as per the provision existing at that time by not suspending the licence first and then sending the record to the District Level Selection Committee for its consideration. Regarding closure of the PDS shop at the time of inspection, the learned counsel stated that the same should not be a reason for the cancellation of licence and in this connection he referred to reported judgements (1986 PLJR, 1986- BRLJ 243). The learned counsel further submitted that several consumers of the petitioner's shop had given in writing before SDO, Chapra Sadar that they got K.Oil every month on fixed quantity and they were satisfied with the distribution system of the petitioner. He also

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stated that similarity in the serial No. of the names of the consumers in the month of April and May – 2008 was mainly for easy disposal of the work and was not for any malafide intention and this petitioner used to maintain his register and other papers by himself or by his accountant. The learned counsel lastly submitted that as all these important facts have not been considered by the appellate court, the impugned order is fit to be set aside and this revision petition be allowed.

The learned Spl. P.P. on the other hand simply supported the impugned order by saying that the same is reasoned and justified in view of the irregularities found by the licensing authority (the SDO himself) during inspection and the petitioner had failed to contradict the same through his show cause reply.

Considering the facts and circumstances of the case, material available on records, arguments advanced by the learned counsel for the petitioner and on perusal of the impugned order, it appears that the appellate court has discussed each and every aspects of the case properly and finally came to the conclusion that the petitioner has failed to bring any evidence on record to show that he used to distribute the articles regularly amongst the consumers. This finding of the appellate court seems to be correct and proper as nothing is available on record to show that the petitioners distribution was fair. The learned counsel for the petitioner has raised those points again before this court which were raised earlier before the appellate court and which has already been considered. I do not find any justification to deal with the same points again which has already been decided by the appellate court. The learned counsel for the petitioner has failed to set forth any good ground for interference by this court in revision in the impugned order of the appellate court. Accordingly, I am constrained to uphold the impugned order.

In the result, this revision petition is dismissed.

Dictated and Corrected by me.

6.2.16
Commissioner,
Saran Division, Chapra

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