

In The Court of Commissioner, Saran Division, Chapra

Supply Revision No. 06/2016

Shankar Singh

Vrs.

The State of Bihar

ORDER

28-03-2016 - The instant revision petition is directed against the impugned order passed by D.M. Siwan in Supply Appeal No. 66/2014-15 on 15.12.2015.

The brief facts of the case are that the petitioner Shankar Singh S/o Late Sheonath Singh R/o Vill-Surajpura, Block & P.S.-Basantpur, Dist-Siwan was a PDS dealer. Further case is that the petitioner's PDS shop was inspected by an inspecting team on 06.09.2014 and also the statements of some consumers were recorded and subsequently the said inquiry report was sent to the SDO, Maharajganj by DSO, Siwan. In the said inquiry report following irregularities were reported like: the dealer was found absent during working time, notice board-cum price board were not properly maintained, stock and distribution registers could not be verified, as per the statements of some consumers the PHH grains were either given at one time, two time or three time to some consumers during march-June-2014 and only 4 ½ kg. Thereafter, a show cause notice was issued by the SDO, Siwan for the alleged reported irregularities. In compliance to the said show cause notice, the petitioner filed his show cause reply denying all the alleged charges of irregularities and also mentioned that on the day of inspection he went to the bank to deposit e-challan for lifting of food grains. Besides this he also stated that some consumers got recorded their false statement against him due to malafide intention. However, the learned SDO, on finding the said show cause reply to be unsatisfactory and holding the petitioner to be guilty for violating the terms and conditions of PDS licence, he cancelled the said licence vide order dt. 12.11.2014. Feeling aggrieved by the said order, the petitioner preferred on appeal case vide supply appeal case No. 66/2014-15 before D.M. Siwan was dismissed vide order dt. 15.12.2015. This led to filing of this revision case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner assailing the impugned order, submitted that the same is purely based on surmises and conjectures other than reasonings inasmuch as the learned Court below has erred in not considering the facts and material mentioned in his show cause reply and relevant documents and papers filed alongwith the show cause reply. The learned counsel further submitted that the learned Court below passed the impugned order ignoring the order passed in same types, same nature and similar facts contained in a case vide supply Appeal No. 64/2014-15. Hira Lal Ram Vrs State of Bihar by the same Court of D.M. Siwan on 29.05.2015. His further plea was that atleast this important fact should have been kept in mind by D.M. so that no two different order could have been passed in two different case when the facts of both the cases are the same. He further submitted that the learned lower Court ought to have considered that in assence of closure of PDS shop at the time of inspection, how the inspecting team arrived at final conclusion that the food grains distributed irregularity among the consumers in less quantity on changing higher rates than the fixed rate in absence of stock register, distribution register, cash memo etc and only on this score the impugned cancellation of licence order of SDO ought to have been set aside by the appellate authority. He also argued that mere closing of a PDS shop for some reasonable cause can not be a ground for cancelling the

licence, the learned counsel further submitted that the learned Court below has passed the impugned order in mechanical way without following the relevant rules and guidelines issued by the Govt. and even the petitioner was not afforded the opportunity to be heard to defend himself which is also against the principle of natural justice. He lastly submitted that as the impugned order is full of illegalities and improprieties, the said order is fit to be set aside and this 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 opined that the said order is cogent reasoned and legal having no infirmity so the same be upheld.

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 petitioner's PDS licence has been cancelled for some irregularities reportedly found during inspection of his PDS shop. The claim of the petitioner is that as his shop was closed on the day of inspection the how can it be possible to detect other irregularities without glancing through the various registers like stock and distribution register. In the same way he also contends that the shop was closed on the day of inspection as he went to Bank for depositing e-challan for lifting of food grains as such the closure of shop was necessiated for genuine reasons. Regarding distribution of less quantity of grain and that too irregularly, his contention is that the said allegation are totally unfounded as the some consumers alleged so due to malafide intention. The other important point raised by the learned counsel is that in a similar nature of case, the order of the Collector was different as the said case was allowed whereas in this case no such principle was applied despite the fact situation of both the case were the same. I do not find much force in the above submissions of the learned counsel for the petitioner because of the fact that it appears that all these pleas having taken as an after thought attempt by the petitioner in his defence. In fact the contentions forwarded by the learned counsel for the petitioner is not substantial and does not seem to be acceptable in the light of material facts available on the record. It is also seen that the learned SDO as a licencing authority has passed a detailed and reasoned order while cancelling the petitioner's PDS licence for the alleged charges of irregularities found during inspection. Furthermore, the learned D.M. Siwan has also passed a reasoned and speaking order having no apparent illegality enabling this Court to make any interference in the said impugned order.

For the aforementioned reasons, the impugned order of D.M. Siwan is upheld and this revision petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me,

28.3.16
Commissioner,
Saran Division, Chapra

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Commissioner
Saran Division, Chapra