

In The Court of Commissioner, Saran Division, Chapra

Supply Revision No. 07/2016

Yogendra Thakur

Vrs.

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. 63/2014-15 on 15.12.2015.

The brief facts of the case are that the petitioner Yogendra Thakur S/o Late Sila Ram Thakur R/o Vill-Surajpura, Block & P.S. Basantpur, Dist-Siwan was a PDS licensee. Further case is that the petitioner's PDS shop was inspected by an inspecting team, constituted on the direction of D.M. Siwan, on 06.09.2014 and in course of inspection following irregularities were found like:-keeping the shop closed and remaining absent during working hour, non-maintenance of notice board and price chart up-to-date, no physical verification of stock and distribution registers could be done due to absence of the dealer, consumers alleged that they were supplied less quantity of food grains, during March-2010 to June 2010 and also of giving two months grains instead of four months but making entry in the card of giving four months ration. Thereafter, a show cause notice was issued by SDO Marhaurah to the petitioner with respect to the aforesaid irregularities found during inspection. In compliance to the said show cause notice, the petitioner filed his show cause reply stating therein that as his wife was suffering from acute diarrhea, he took her to doctor at Madhopur as such he was forced to close his shop as no other person was available in the family to do that on the day of inspection. Besides this, he also stated that he used to distribute the food grains in prescribed quantity to his consumers and other allegations were incorrect. However, the learned SDO, Maharajganj, on finding the said show cause reply to be unsatisfactory and holding the petitioner guilty for violating the terms and conditions of PDS licensee, the said PDS licence of the petitioner was cancelled vide order dt. 12.11.2014. Feeling aggrieved by the said order, the petitioner preferred an appeal vide Supply Appeal case No. 63/2014-15 before D.M. Siwan which was ultimately dismissed vide order dt. 15.12.2015. This led to filing of the instant application before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner at the very outset of his argument, submitted that the impugned order has been passed without considering the material facts of the case in correct perspective. He further submitted that the petitioner's wife was ill in the night of 5/06.09.2014 and as the petitioner took her for treatment and it was due to that reason, his PDS shop was found closed on the day of inspection and although, the petitioner had filed the medical certificate alongwith his show cause reply, the same was neither considered by the SDO nor by the D.M. He also argued that as the shop was found closed how could it have been possible to verify the various registers and without physically verifying the same how far it was correct to say that the petitioner's distribution work was irregular. He further argued that once a show cause notice is issued, the same must be specific regarding the detailed irregularities and it must be sent to the petitioner accompanying the said inquiry report so that one can meet all the charges and also formulate his defence for those specific charges but in this case the same has not been done. He also pointed out the mandatory provision that the petitioner must be granted reasonable opportunity of personal hearing before cancelling his licence but in this case that has not been done which clearly shows that principle of natural justice has not been followed. The learned



counsel further stated that the petitioner in his show cause reply categorically stated that he used to distribute the food grains and k.oil amongst the consumers on regular basis and the same was also verified by the member of village level monitoring committee and concerned Mukhiya of the Gram panchayat then in that circumstances no irregularities can be expected on the part of the dealer of the PDS shop but these important facts were not considered either by the SDO or by the learned D.M. The learned counsel also submitted that the licencing authority ought to have considered the case of the petitioner sympathetically holding the reported irregularities to be of non-serious nature, and he should have been inflicted with some lighter punishment like warning for future or some fine but instead of doing so extreme punishment like cancellation of licence has been passed. He lastly submitted that, although, these points were raised before the appellate Court but the learned D.M. simply confirmed the cancellation order of SDO without recording the reasons for his such view. As such the impugned 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, opposing the arguments forwarded by the leaned counsel for the petitioner, on the other hand submitted that the impugned order is just and proper having no infirmity as such the same is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the petitioner's PDS licence has been cancelled for certain irregularities reportedly found during the inspection of his PDS shop. The petitioner's contention is that as his shop was closed on the day of inspection owing to his wife's illness and he took his wife to a doctor for treatment, other allegations against him is totally unfounded as the same could not have been verified/found during inspection due to closure of shop. His other contention is that although he filed a detail show cause reply supported by the documentary evidence the same was not considered by the licencing authority the SDO or by the appellate authority, the D.M. Siwan which they ought to have considered as the alleged charged against him was not correct. I do not find any reason to accept such submission for the fact that the learned SDO in his order has discussed with sufficient reasons for non acceptance of the said show cause reply filed by the petitioner for the alleged charges. Similarly the learned D.M. Siwan in the impugned order has also discussed each and every aspects of the case properly while arriving at his final findings of fact. In fact all the averments raised by the learned counsel for the petitioner seems to be an after thought action deliberately formulated in defence by the petitioner which is not proved on the face of material available on records. As such I do not find any good ground to make any interference with the said impugned order of D.M. Siwan and accordingly the same is upheld.

In the result this revision application is dismissed.

Dictated and Corrected by me.

28.3.16
Commissioner,
Saran Division, Chapra

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