

In The Court of Commissioner, Saran Division, Chapra

Supply Revision No. 202/2015

Raj Bihari Singh

Vrs.

The State of Bihar

ORDER

09-03-2016 - The instant revision application is directed against the impugned order passed by D.M., Saran on 11.06.2015 in Supply Rev. No. 102/2012.

The brief facts of the case are that the petitioner Raj Bihari Singh S/o Late Ambika Singh R/o Village- Pachkhanda, P.S.- Mashrakh, Dist- Saran was a PDS licensee. Further case is that the petitioner's PDS shop was inspected by a District level inspecting team headed by one Kumar Manglam SDC on 10.01.2012. In course of inspection following irregularities were reportedly found like: distribution of K.Oil at a gap of two month, snatching of coupons of two months at a time, non-distribution of food grains on time, keeping of records in the sub-divisional office, not issuing of cash memos, non verification of appliances and charging of excess price for K.Oil and food grains. Thereafter, a show cause notice was issued by the SDO, Marhaurah vide Memo No. 529 dated 19.03.2012 with respect to the above-mentioned reported irregularities. The petitioner filed his show cause reply denying all the charges, however, the learned SDO on finding the said show cause reply to be unsatisfactory cancelled the said PDS license vide order contained in Memo No. 2198 dated 24.07.11. Feeling aggrieved by the said order, the petitioner preferred an appeal before D.M., Saran vide Supply Appeal No. 102/2012 which was dismissed vide order dated 10.06.2015.

On being aggrieved by and dissatisfied with the aforesaid order of D.M. Saran, passed in Appeal Case, the petitioner has preferred the instant revision petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner submitted at the very outset of his argument that the impugned order has been passed by D.M. Saran without appreciating the entire facts of the case properly and weighing the evidence available on the record. He further argued that the petitioner's shop was alleged to have been inspected on a complaint of three unknown person who were not the consumers of the petitioner's shop and a show cause notice was issued for the alleged irregularities but the show cause reply filed by the petitioner was not considered properly and his said license was cancelled by the SDO. He also pleaded that even the D.M. Saran also without examining the entire facts simply confirmed the said cancellation order which makes the order illegal and arbitrary. He also argued that as the reported irregularities against the petitioner itself is not sustainable in view of the fact that the person who were complainant were not the bonafide consumers of the petitioner. The learned counsel also submitted that the certificate granted by local Mukhiya and also signed by different consumers stating therein of fair distribution by the petitioner, was not considered by the D.M. as and appellate

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authority. He lastly placed reliance on several judgments of Hon'ble High Court in support of his contention that no license can be cancelled on vague complaint. The learned counsel also pleaded that it was due to enmity that some villagers lodged a false statement before the inspecting team.

The learned Spl. P.P. on the other hand submitted that the impugned order is just and proper having no infirmity as such the same be upheld.

Considering the facts and circumstances of the case, material available on record arguments advanced by the learned counsel for the petitioner and on perusal of the impugned order, it is seen that the learned SDO, Marhaurah has cancelled the petitioner's PDS license for the reported irregularities stated to have been found during inspection of his PDS shop. It is also seen that the said inspection of PDS shop was done on the report of some persons. The petitioner's contention is that the said complainants were not his consumers rather they were the persons of his village with whom he had enmity. This claim of petitioner seems to be correct in view of the fact that the local Mukhiya and some villager have supported the plea that the petitioner's distribution work with respect to food grains and k.oil was fair and never any complaint has been filed by any person of the panchayat. The other claim of the petitioner is that, although, he filed his show cause reply before the licensing authority, the SDO, stating therein the all facts and also annexed the copies of the relevant documents in support thereof, the said show cause reply was rejected terming the same to be unsatisfactory. There appears to be some substances in the said claim of the petitioner in view of the documents available in records. I find that the learned SDO should have looked into the matter rationally before arriving at the final findings of fact vis-à-vis the reported alleged irregularities. It is seen that the learned D.M. acting as the appellate authority in the matter should have dealt with the issue appropriately by correct appreciation of the material facts of the case. In fact the leaned D.M. has simply confirmed the said cancellation order without recording any own finding in the matter and has not assigned any reason for his such finding.

For the aforementioned reasons, the impugned order of D.M. Saran is not sustainable and the same is set aside accordingly.

In the result this revision petition is allowed.

Dictated and Corrected by me.

9-3-16
Commissioner,
Saran Division, Chapra

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Commissioner
Saran Division, Chapra