

In The Court of Commissioner, Saran Division, Chapra

Supply Revision No. 79/2013

**Lallan Mishra
Vrs.**

State of Bihar

ORDER

09.02.2016 - The instant revision petition is directed against the impugned order passed by D.M. Siwan in Supply Appeal case No. 56/2012-13 on 21.12.2012.

The brief facts of the case are that the petitioner Lallan Mishra, S/o Late Sukuru Mishra R/o vill-Hasua, Block-Jiradei, Dist-Siwan was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected on 02.06.2012 at 11.15 AM by the SDO, Siwan Sadar and on finding certain irregularities like: the PDS shop was found closed and the dealer was found absent, consumers like Bhola Sonar alleged that the dealer after supplying food grains of one month took the coupons of March, April and May 2012 and also kept the coupon of Umapati kuwar, other consumers Saroj Devi W/o Ramprit Sharma alleged that even after taking coupons of three months (March, April, May 2012) no food grains have been given, similarly Red Card holders Suganti Devi leveled the similar charges against the dealer. Thereafter, the SDO, Siwan Sadar vide memo No. 153 dt. 06.06.2012 served a show cause notice to the petitioner directing him to file show cause reply for the alleged irregularities found during the inspection of his PDS shop. In compliance to the said show cause notice, the petitioner filed his show cause reply stating therein that his shop was closed on the day of inspection as he went to a doctor for sugar checkup and regarding other irregularities he stated that he used to distribute the food grains regularly amongst his coupons. However, the learned SDO on finding that the said show cause reply to be insufficient as no evidence have been produced by petitioner in support of that, he finally held the petitioner responsible for violating the terms and conditions of PDS licence, cancelled the said licence vide order contained in memo No. 186 dt. 30.06.2012. Feeling aggrieved by the said order, the petitioner preferred an appeal case vide supply Appeal case No. 56/2012-13 before D.M. Siwan and the said appeal was dismissed vide order dt. 21.12.2012.

On being aggrieved by and dissatisfied with the aforesaid order, the petitioner has preferred this revision case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner submitted that the impugned order is illegal and against the factual aspect of the case. He further submitted that on the day of inspection, the petitioner has actually gone to Krishna Diagnostic Centre, Siwan for giving sample of blood for detection of fasting blood sugar level. He also submitted that the petitioner had denied in his show cause reply that the allegation of keeping the three months coupons of some consumers is false rather the fact is that he used to distribute the food grains regularly amongst his consumers and it was for that reasons those consumers who alleged to



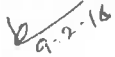
have stated before the inquiry officers later on denied the same though affidavits. He contended that these facts were neither considered by the SDO nor by D.M. Siwan. He further argued that even the villagers of Panchayat Hasua filed a petition in Janta Darbar of D.M. and a report was called for on the said petition from DSO, Siwan who in turn directed ADSO to conduct inquiry and in subsequent enquiry. It was reported that the distribution work of the petitioner was fair but even the report of ADSO was not taken into consideration. He lastly submitted that the appellate Court has failed to appreciate the facts and circumstances of the case appropriately and even the settled position that no licence be cancelled for one day closure of PDS shop has been completely ignored. He lastly submitted that the impugned order is fit to be set aside and in turn this revision petition be allowed.

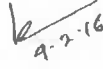
The learned Spl. P.P., on the other hand, strongly supported the impugned order and submitted that the said order is cogent, reasoned and proper as the learned D.M. has passed a detailed order having no infirmity. He further submitted that the PDS shop of the petitioner was inspected by non other than the SDO, himself wherein serious irregularities like not supplying food grains to the Red Card holders were found.

Considering the facts and circumstances of the case, material available on records pleadings advanced by the learned counsel for the petitioner and on perusal of the impugned order, it is seen that the petitioner's PDS licence was cancelled for the alleged irregularities found during the inspection of the his PDS shop by the SDO himself and eventually failure of the petitioner to controvert those irregularities through reliable evidences. It is also seen that closure of shop on the day of inspection is not the only ground for cancellation of PDS licence in this case rather the other irregularities like forcibly taking the three months coupons in advance by the dealer and subsequently not supplying them the food grains is a serious charges. Obviously this conduct of the PDS dealer is not justified any way. The plea taken by the petitioner that those consumers whose coupons alleged to have been taken by the petitioner in advance and subsequently their denial of said allegation through affidavits have no significance at all and this can not go in defence of the petitioner. In fact, this may be a after thought action by the petitioner in his defence. The petitioner should have furnished the documentary evidence at least to the effect that he had supplied the food grains for those months to the said consumers for which he was charged for taking the coupons. I find that the learned D.M. has passed a reasoned and befitting order having no illegality or infirmity to warrant any interference in the said impugned order. As such the impugned order is upheld.

In the result this revision application is dismissed.

Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra


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Saran Division, Chapra