

**IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHHAPRA**

Supply Revision No-49/2013

Ram Jiwan Prasad ... Petitioner  
Vs  
State of Bihar & others. Respondents

ORDER

The instant revision application is directed against the impugned order Passed by D.M. Saran dated 27.01.2013 in Supply Appeal case No- 35/2012 whereby and whereunder the petitioner's PDS license cancelled by SDO, the licensing authority, Chapra Sadar has been upheld.

The brief fact of the case is that the petitioner Ram Jiwan Prasad S/o-Late Dewaki Rai R/o Village- Khabsi Surawdha P.S.-Baniyapur, District, Saran was a PDS licensing having license No.- 99/2007. The further case is that the petitioner's PDS shop was inspected on 15.11.2011 by District level inspecting team. In course of inspection the following irregularities were found. 1. The shop was closed at his time of inspection (I.P.M) 2. No inspection of relevant document could be done due to absence of shopkeeper. The inspecting team reported the matter to SDO, Sadar who in turn vide memo No-85/supply dt. 04.01.12 asked show cause from the petitioner. The petitioner filed his show cause reply and on finding the said show cause reply to be unsatisfactory the same was rejected and the petitioner's PDS license No-99/07 was cancelled with immediate effect vide memo No-350 dt. 3.3.2012

On aggrieved by the said cancellation order of SDO, Sadar Chapra, the petitioner preferred an appeal before D.M. Saran Chapra vide supply Appeal case No. 35/2012 but the D.M. Saran, the appellate authority dismissed the said appeal on 27.1.2013

On being aggrieved by and dissatisfied with the said order of D.M. Saran passed on 27.1.2013, the petitioner preferred this revision petition before this court

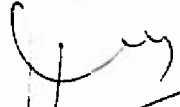
Heard the parties.


The learned counsel appearing on behalf of the petitioner submitted that the order of confirmation passed by the learned collector is not based on analysis of fact and law from consistent judicial angle. He further submitted that

the petitioner used to run his PDS shop as per the term and conditions laid down in the license and in the past he has never been charged with contravening the terms of the license rather he used to distribute, the food grains and K. oil to the consumers in presence of vigilance committee. He further argued that the petitioner always opened his shop in time regularly but due to exigency on 15.11.11 his shop was closed as he went to sonpur in correction with the marriage negotiation of his nephew as such the closure was under compulsion and not intentional. The learned counsel further submitted that mere closing of shop for a day is not grave offence to warrants cancellation of PDS license and in support of his contention he also relied upon some judgments passed by Hon'ble court wherein it has been held that mere closure of PDS shop for a day can not be such a grave offence that invites cancellation of the license. The learned counsel lastly prayed that the impugned order of SDO, Chapra contained in memo No-350 dt 3.3.2013 and the appellate order of D.M. Saran dt. 27.01.2013 be set a side and the license of the petitioner be restarted.

Considering the facts and circumstances of the case, material records and arguments advanced by the parties, I find that the only charge against the petitioner that the shop was closed on the day of inspection. It is seen that petitioner fully explained the reason for his forced absence as it was necessitated for personnel reason. So this action of petitioner can not be treated as such a grave charge for the cancellation of his license as observed by Hon'ble High Court also in several judgments. The appellate authority the D.M, Saran should have considered this. But the learned collector simply upheld the order of SDO, Sadar Chapra without considering the fact brought before him. It is seen that the absence of petitioner was not intentional rather it was become necessitated to meet the family needs. As such the order of D.M. Saran dt. 27.01.13 can not be upheld and accordingly the same is set aside and in turn this revision application is allowed.

Dictated and corrected by me

  
Commissioner  
Saran Division Chapra  
13/2/14

  
Commissioner  
Saran Division Chapra  
13/2/14