

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 71/2017
Makeshwar Ojha
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Saran in Supply Appeal case No. 02/2016 on 27.04.2017.

The brief facts of the case are that the petitioner Makeshwar Ojha S/o late Mahangu Ojha R/o Vill-Baniyapur, P.S.-Baniyapur, Dist-Saran was a PDS dealer. Further case is that pursuant to a complaint petition filed by one Ram Ayodhya Ojha of Basantpur village, the PDS shop of the petitioner was inspected by Sri Dharmendra Kumar, SDC, Saran on 03.09.15 and after inspection he submitted his report to the SDO, Chapra Sadar. Acting on the said report, the SDO, Chapra Sadar vide memo No. 1371 dt. 14.11.2015 served a show cause notice to the petitioner for the following irregularities alleged to have been found by the inspecting officer during inspection. The reported irregularities are following. 1, Mati Jhari Devi W/o Sheo nath Sah alleged by to have stated that she was not given any food grains for 9 months and k.oil has only been given 2 ½ litre. 2. Mohran Bibi W/o Nabi Hussain alleged that she has not been given food grains from one year and 2 ½ litre k.oil was given at Rs. 51. 3, Rajia Bibi w/o Sabir Hussain alleged that for two months no food grains and k.oil has been distributed. 4, Sultan Mia S/o Daldali Mia alleged that food grains and k.oil were given after two months. 5, Anbari Bibi W/o Abdul Hasan and some other consumers also alleged that food grains and k.oil was not distributed regularly. The petitioner filed his show cause reply but the SDO on finding that the said show cause reply was unsatisfactory and fit to be rejected, he vide order contained in memo No. 1449 dt. 17.12.2015 cancelled the petitioner's PDS licence. Feeling aggrieved by the said order, the petitioner preferred and appeal before D.M. Saran against the cancellation order of SDO, Chapra Sadar but the said appeal case was dismissed by D.M. Saran vide order dt. 27.04.2017. This led to coming of this revision case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing behalf of the petitioner while assailing the impugned order of D.M. Saran said that the said order is bad in law and facts on record. He further submitted that the petitioner always supplied the food grains and k.oil on fixed price and weight to the consumers. He also submitted that the name of the persons alleged to have stated that the petitioner used to commit irregularities in distribution of food grains and k.oil, they have given affidavit in favour of the petitioner that they have never alleged so before any officer. He also argued that the petitioner was not given any opportunity of hearing on the show cause notice as such the cancellation order is illegal and even the impugned order of D.M. Saran is also against the provision of natural justice. He also submitted that the learned D.M. ignored the well settled decision of Hon'ble High Court cited by the petitioner and only relying upon the findings of learned SDO, dismissed the appeal case which is erroneous and illegal. He lastly said that the impugned order is fit to be set aside.

The learned Spl. P.P., opposed the submission made by the learned counsel for the petitioner and stated that as the complaint petition filed by some consumers in Janta Darbar

of D.M., the matter was inquired into by a senior officer who found the allegations true and it was on the said report, the licence of the petitioner has been cancelled. He further said that the impugned order is legally valid, cogent, proper and reasoned so the same is fit to be upheld.

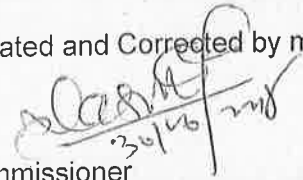
Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it appears that the petitioner's licence has been cancelled serious charges like non distribution of food grains regularly and in prescribed quantity and rate to the consumers attached with his PDS shop. Obviously, this is serious irregularities on the part of the petitioner because he deprived the poor people from their right of getting subsidized grains through PDS. The contention of the petitioner is that the persons alleged to have stated so at the time of inspection later on denied the same through affidavit. I do not find much substance in the said contention of the petitioner in view of the fact that the said affidavit might have been procured by the petitioner as a after thought ploy to defend himself from the alleged charges. It is seen that the learned D.M. in his detailed order has discussed each and every aspects of the case appropriately before arriving at the final findings of fact that the petitioner has violated the terms and conditions of PDS licence. The learned counsel for the petitioner has failed to point out any specific illegality in the said order.

PDS
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For the reasons stated above, the impugned order is upheld.

In the result this revision petition stands dismissed.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.