

**In The Court of Commissioner, Saran Division, Chapra**  
**Supply Rev. No. 233/2016**  
**Md. Sahabuddin**  
**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. 147/2012 on 27.10.2016.

The brief facts of the case are that Md. Sahabuddin S/o Late Kayamuddin R/o Vill-Aourha Maal, P.S.-Garkha, Dist-Saran was a PDS dealer. Further case is that a notice was issued to the petitioner by SDO, Chapra Sadar vide memo No. 1027/c dt. 11.09.2012 directing him to file show cause reply within three days for his failure to transfer money through NEFT for the month of sept. 2012 for lifting of food grains besides for some other allegations. As the petitioner failed to comply with the said direction of the licencing authority, SDO, Chapra Sadar cancelled the petitioner's PDS licence vide order contained in memo No. 1188 dt. 29.10.2012. Feeling aggrieved and dissatisfied with the said cancellation of his PDS licence, the petitioner preferred an appeal bearing Supply Appeal No. 147/2012 before D.M. Saran and finally the said appeal was dismissed vide order dt. 27.10.2016. This led to coming of this case 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 is bad in law and facts of the case and it appears that substantial justice has not been done to the petitioner by the learned D.M. what he ought to have done. He further argued that the very facts that the learned SDO by violating the principle of natural justice had cancelled the licence, this fact was not taken into account by the learned D.M. He also argued that the learned D.M. ought to have considered the point that only three days time was granted to the petitioner to submit show cause reply which was by no mean sufficient for the petitioner to do so when his matters was seriously ill and his father already expired on 16.08.2012. The learned counsel also argued that the learned D.M. without considering this fact passed the order in haste. He further said that the learned D.M. has not considered that the petitioner had deposited the sum of Rs. 333.40 and 22488.00 through cheque No. 19338, 19338 respectably on 24.09.2012 for lifting the grain of Antodaya and B.P.L. scheme. The learned counsel also submitted that the learned D.M. Saran failed to consider the important point that the cancellation of PDS licence was ordered by SDO on the report of BSO, Garkha which was completely misconceived and no further inquiry was made by SDO in the matter. He lastly submitted that as the impugned order is arbitrary, illegal and full of infirmities, the said order can not be held as legally sustainable and hence the same is fit to be set aside and also for the reason that no PDS licence be cancelled for non lifting of food grains as instruction contained in letter issued by the dept. from the level of principle secretary.

The learned Spl. P.P. appearing on behalf of the D.M. Saran opposed the argument forwarded by the learned counsel for the petitioner and submitted that the petitioner's PDS licence has been cancelled for his failure to deposit the required money through NEFT for lifting the food grains which was the practice prevailing at the time. He further argued that learned D.M. has passed a reasoned, cogent and proper order as such the same is fit to be upheld and this revision petition being devoid of any merit is fit to be dismissed.

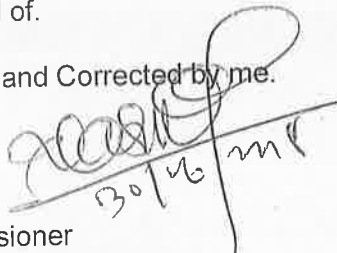


Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the appellant and on perusal of the impugned order, it is quite obvious that the petitioner's licence has been cancelled mainly for the alleged charges of non transferring of money through NEFT for lifting the food grains for the month of sept-2012 and subsequently his failure to file show cause reply for the said allegations as directed by the SDO. The learned counsel for the petitioner is of the view that as the petitioner's father was died on 16.08.2012 and his mother was seriously ill, the petitioner could not file the show cause reply within three days as directed for. This plea of the petitioner's counsel seems to be tenable in view of the fact that death certificate and medical prescription available on record also show so. The learned counsel is also of the view that as the petitioner deposited money through NEFT on different dates through cheque in the month of sept. 2012 then how can he be held as habitual offender of not complying with the instructions of the deptt. The learned counsel for the appellant also placed reliance on the reported judgement passed by Hon'ble High Court in CWJC No. 12099/2015 wherein it has been held that as per letter of principle secretary, the licence can not be cancelled on account of non-lifting of food grains and in support of that he also filed copy of the said order. Thus, it appears that the charges for which the petitioner's licence has been cancelled is not a valid charge as per the instructions of the deptt. The learned D.M. ought to have considered this point independently before arriving at his final conclusion. By not doing so, it appears that substantial justice has not been done to the petitioner.

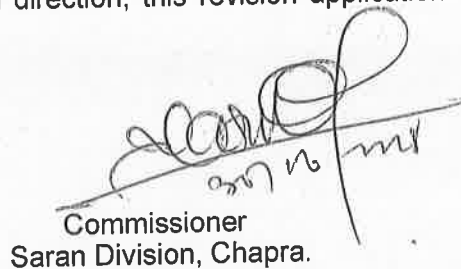
In that view of the matter, the impugned order is not sustainable and hence the same is set aside. The case is remitted back to the D.M. Saran for reconsideration and passing a fresh order in accordance with law.

With the abovementioned observation and direction, this revision application is disposed of.

Dictated and Corrected by me.



Commissioner  
Saran Division, Chapra.



Commissioner  
Saran Division, Chapra.