

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. Case No. 242/2015
Nagendra Tiwari
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Saran in Supply Appeal No. 124/2012 on 13.08.2015.

The brief facts of the case are that Nagendra Tiwari S/o Sudama Tiwari, R/o vill-Bhawalpur, P.S. & block- Marhaurah, Dist-Saran was a PDS dealer. Further case is that BSO, Marhaurah vide his letter No. 68 dt. 22.02.2012 sent a report to the SDO, Marhaurah stating therein that as the petitioner did not deposit the used coupons in time the food grains for the month of January, February, and march-2012 could not be allotted to him. Besides this he also reported that as the dealer failed to deposit coupons for the month of January to march-2012, the food grains meant for consumers attached to his shop under Antodaya and BPL scheme were remained deprived from the food grains. For the said reported irregularities, the SDO, Marhaurah vide memo No. 1623 dt. 25.05.2012, 1735 dt. 31.05.2012 and again vide memo No. 2851 dt. 07.09.2012 asked show cause from the petitioner alongwith other relevant records. But the petitioner did not file his show cause reply and the learned SDO, Marhaurah as licencing authority came to the conclusion that the petitioner had nothing to say in the matter and also held that by not depositing the coupons it seemed to him that food grains have been sold in black market instead of distributing the same amongst the consumers. This became the reasons for the cancellation of the licence of the petitioner and the order contained in memo No. 3100 dt. 24.09.12 was communicated to the petitioner. Feeling aggrieved by the said cancellation order, the petitioner filed an appeal case before D.M. Saran vide Supply Appeal case No. 124/2012. The learned D.M. Saran, after hearing the parties, finally vide order dt. 13.08.2015 dismissed the said appeal case. This led to coming of this case before this Court under the revisional jurisdiction.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner while assailing the impugned order of D.M Saran as well as order of the licencing authority relating to cancellation of licence of the petition, submitted that the said order are not maintainable under law. He further submitted that the learned Court below without considering the relevant facts of the case properly, passed the impugned order. He further said that the learned Court ought to have considered the facts that the petitioner failed to deposit the coupons due to his ailment and for that he should not have been made liable for deprivation of food grains to the consumers. He further criticised the cancellation order by saying that no opportunity of personal hearing and any opportunity of being heard on the show cause thereby principle of natural justice has been violated. He also argued that there was no complaints of consumers against the dealer despite his licence has been cancelled. The learned counsel also argued that the learned D.M. also did not consider the facts placed before him in appeal and even ruling cited in support thereof and dismissed the said appeal. He lastly submitted that as the petitioner was hanging between life and death due to his critical condition owing to severe attack of jaundice, he failed to comply with the direction of depositing coupons and for such minor mistake he should not be allowed to



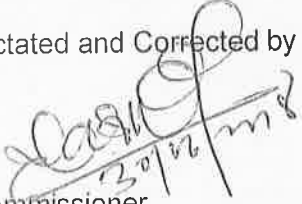
suffer. He also pleaded that in the interest of justice, the petitioner's revision petition needs to be allowed by setting aside the impugned order.

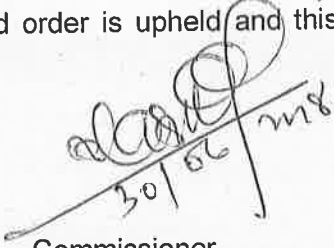
The learned Spl. P.P. appearing for learned D.M. Saran strongly opposed the arguments forwarded by the learned counsel and submitted that the impugned order is just, proper and valid. He further argued that the petitioner has been held guilty for not deposit the coupons so that food grains meant for poor people could not be made available to them. He lastly said that the revision application being devoid of any merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that the PDS licence of the petitioner has been cancelled by the licencing authority for the reason that he failed to deposit coupons for getting allotment for the next month for three successive month. This lapse on the part of the appellant has been taken as a serious irregularities for the reason that by this lapse on the part of the petitioner he made several consumers deprived of their rations. Obviously, it appears to be a serious mistake on the part of the dealer. Moreover, it is important to note that despite original show cause notice, two reminders were sent to him but the petitioner failed to file his reply. The petitioner now takes the stand that as he was ill he could not file the reply. This plea of the petitioner seems to be highly unsatisfactory. Mere suffering from jaundice can not make a person incapable of submitting a reply to show cause. Thus, it appears that the petitioner by not submitting his show cause reply for the said allegations tried to get some undue benefit from his alleged illness. Such plea can better be taken as a after thought tactics of defence. The learned D.M. while dismissing the appeal has considered all aspects of the case properly. The learned counsel failed to point out any specific lacuna in the said order and even the ruling cited by him does not apply in the facts of the present case.

For the reasons stated above, the impugned order is upheld and this revision petition being devoid of any merit is dismissed.

Dictated and Corrected by me.


30/06/18
Commissioner
Saran Division, Chapra.


30/06/18
Commissioner
Saran Division, Chapra.