

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 114/2017
Madan Singh
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. 11/2015 on 23.06.2017.

The brief facts of the case are that the petitioner Madan Singh S/o Late Keshwar Singh R/o vill-Sitabdiara, Block-Rivilganj, Dist-Saran was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected by Sri Kumar Omkeshwar, SDC, Saran pursuant to a complaint petition filed by Subash Kumar, and 23 others in the Janta Darbar of D.M. Saran. In course of inspection following irregularities were found like; on the day of inspection 02 quintal wheat and 3.03 quintal rice were found in the house of the petitioner instead of in store room, some consumers alleged that food grains were supplied in less quantity after taking excess price and by giving one month's ration, two months entry is made; Besides this the petitioner did not open his shop regularly and regular distribution of food grains is not done. Acting on the said inspection report, the SDO, Chapra Sadar vide memo No. 379 dt. 23.08.2014 served a show cause notice to the petitioner for the abovementioned reported irregularities. The petitioner filed his show cause reply denying the allegations levelled against his, but the SDO on finding the said show cause reply to be unsatisfactory, finally vide order contained in memo No. 117 dt. 27.01.2015 cancelled the petitioner's PDS licence. Feeling aggrieved by the said order, the petitioner preferred an appeal case bearing Supply Appeal case No. 11/2015 before D.M. Saran. The said appeal was dismissed by D.M. Saran vide order dt. 23.06.2017 on being aggrieved by the said appellate order, the petitioner has preferred the instant revision petition 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 cancellation order of SDO, Chapra Sadar as well as the appellate order passed by D.M. Saran are factually and legally not correct as the both the authorities have committed serious error and wrongly jumped at the conclusion. He further argued that actually no illegality was committed by the dealer in storing the grains in adjoining room and the same was done only with a good intention of saving the grain from seepage of water in the store room. He also argued that the learned lower Court committed blunder by not appreciating and considering the affidavits sworn on oath by eight persons whose statements were said to be recorded by inspecting authority, which is said to be basis of cancellation of PDS licence of the petitioner. He further said that neither the SDO nor the learned D.M. had considered the affidavits filed by several consumers stating there in that they have no complaint with the petitioner and the petitioner used to distribute the food grains and k.oil in right quantity and regularly. He further argued that even the alleged statements said to be recorded by the inspecting officer was not supplied to the petitioner with the show cause notice thereby deprived the petitioner from furnishing effective reply to those allegations. He lastly prayed that the impugned order is fit to be set aside.

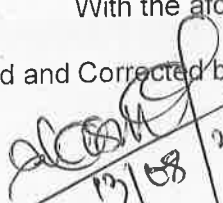
The learned Spl. P.P. in his written statement fully supported the impugned order of D.M. by saying that the said order is reasoned, cogent and valid having no illegality as such the same is fit to be upheld. He further wrote that this revision application being devoid of any merit is fit to be rejected.

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 PDS licence has been cancelled for committing gross irregularities in distribution of food grains to the consumers thereby holding him guilty for violating the terms and conditions of PDS licence. The petitioner's counsel plea is that the petitioner was not served with the copy of the said inquiry report alongwith the show cause notice thereby depriving him of his legal right. This plea of the petitioner seems to be true from the lower Court record of SDO, Chapra Sadar in view of the fact that nothing has been mentioned in the said show cause notice as to whether the inquiry report was annexed thereto or not. However, this does not dilute the allegations of commission of gross irregularities in distribution of food grains to the consumers. And on this lapse alone, the petitioner does not deserve any lenient view. I find that the learned D.M. has discussed in detail about the allegations and also recorded reasons for upholding the impugned cancellation of licence of the petitioner. But it is also seen that he has not recorded his findings on this specific plea of the petitioner with respect to non supply of inquiry report. This lapse on the part of the appellate authority, makes the impugned order arbitrary and erroneous. This Court feels that obviously substantial justice has not been done in the instant case at the appellate stage.

For the aforementioned reasons, the impugned order of D.M. Saran is not sustainable as such the same is set aside. The case is remitted back to the D.M. Saran for fresh consideration and to pass a fresh order in accordance with law.

With the aforesaid observations and directions, this revision petition is disposed of.

Dictated and Corrected by me.


13/08/2018
Commissioner
Saran Division, Chapra.


13/08/2018
Commissioner
Saran Division, Chapra.