

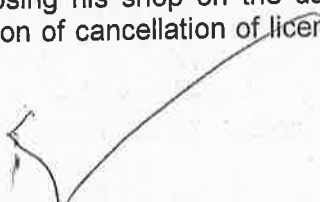
**In The Court of Commissioner, Saran Division, Chapra**  
**Supply Rev. No. 74/2017**  
**Prabha Shankar Singh**  
**Vrs.**  
**The State of Bihar**  
**ORDER**

The instant revision petition is directed against the impugned order passed by D.M. Saran in case bearing Supply Appeal case No. 22/2016 on 27.04.2017.

The brief facts of the case are that the petitioner Prabha Shankar Singh S/o Chandeshwar Singh R/o Vill-Ballia, P.S.-Ekma, Dist-Saran was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected on 17.07.2016 at 12.00 noon by the BSO, Ekma. During inspection following irregularities were found like: the shop was found closed and some people stated that the shop open irregularly and the dealer has kept his residence in the Aandhari Panchyat, notice board was not displayed at prominent place, consumers alleged that the dealer did not distribute food grains and k.oil every month, food grains were given in less quantity than the prescribed limit and cash memos were not given to the consumers. Thereafter, the licencing authority, the SDO, Chapra Sadar asked show cause from the petitioner vide memo No. 711 dt. 26.07.2016 for the aforementioned irregularities. The petitioner filed his show cause reply refuting all the alleged charges and also filed documents in support of his denial. But the learned SDO, on finding the said show cause reply to be unsatisfactory, rejected the said show cause reply and ultimately held the petitioner as guilty and for that he cancelled the said licence vide order contained in memo No. 841 dt. 16.08.2016. Feeling aggrieved by the said cancellation order, the petitioner preferred an appeal before D.M. Saran vide Supply Appeal case No. 22/2016 which was subsequently dismissed on 27.04.2017. This led to coming of this case before this Court.

Heard the learned counsel for the petitioner

The learned counsel appearing on behalf of the petitioner at the very outset of his argument submitted that the impugned order is based on surmises and conjectures as such the same is not maintainable in the eyes of law. He further argued that actually some person who were enemical to the petitioner had given wrong submissions before the inquiry officer with respect to so called irregularities in distribution of food grains and k.oil to the consumers by the petitioner and it was on this ground the learned SDO asked show cause from the petitioner. He further argued that the petitioner had filed his detailed show cause reply denying all the alleged charges supported by certificates issued by Mukhia and up-Mukhia, but the said documents a proof of fairness of dealer, was neither considered by the licencing authority nor the appellate authority. He further argued that all those five persons whose statements were taken into account by the inspecting officer as proof for commission of gross irregularities by the petitioner were lateron filed affidavits that no inspection had actually been done and their had not made any statements as such the entire inquiry becomes false. The learned counsel further stated that the petitioner used to distribute food gains regularly to the consumers and on the alleged date of inspection 17.07.2016, no food grains were available in his stock as his stock was nil since 01.07.16 because he had distributed the grains to the consumers on 28.06.2016 and k.oil was lifted on 26.07.16 and 28.07.2016 respectively. He also stated that due to uncertainty of supply the petitioner had gone to Ekma by closing his shop on the date of inspection. The learned counsel lastly submitted that as the action of cancellation of licence of the petitioner is



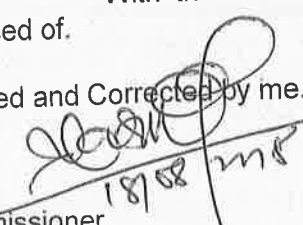
based on flimsy grounds, the said order is fit to be set aside and since the learned D.M. also failed to consider the relevant facts of the case appropriately, the said order is also not sustainable in law as such the same is fit to be set aside.

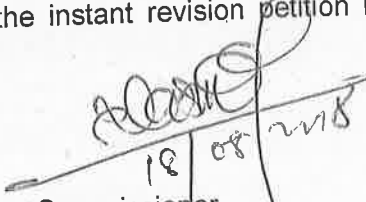
Considering the facts and circumstances of the case, material available on records, arguments advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that the petitioner's PDS licence has been cancelled for committing some serious irregularities relating to distribution of food grains and k.oil besides closure of shop on the day of inspection. The petitioner's counsel is of the view that the said allegations were not true as the very statements of those five consumers, stated to have been recorded by the inquiry officer, later on denied the same through affidavits. He also contends that the same five consumers also stated in their affidavits that no one had taken their statements at the time of inspection. If these two pleas are taken to be true then the whole inquiry becomes false and on such inquiry, no action required to be taken against the petitioner. However, it is seen that the learned SDO, Chapra Sadar while considering the show cause reply filed by the petitioner did not take into account the relevant facts supported by documents and certificates issued by the Monitoring committee of the said panchayat with respect to fair distribution by the petitioner. But from the photo copies of various registers available on records it is seen that the petitioner had obtained the signature of Mukhia and up-Mukhia of the concerned panchayat. Thus it becomes quite apparent that the allegation relating to non-distribution of food grains or irregular distribution of food grains are not proved on the face of material available on record. The other allegation of closing of shop for a day is not a serious allegation at all as held by the Hon'ble High Court. I find that these facts should have been considered by the appellate authority before arriving at the final findings of fact. However, from perusal of the impugned order it is seen that the learned D.M. Saran failed to consider these points. In fact, it appears that the learned D.M. has passed the impugned order in haste and had it not been so some glaring mistake would not have been crept in the said order. The said discrepancy in the order is basically relates to mentioning of the date of closing of the shop of the petitioner. The PDS shop of the petitioner was inspected on 17.07.2016 but the learned D.M. in his order noted that the petitioner had kept his shop closed on 31.11.2015 which is sufficient to show that the impugned order has been passed in mechanical way without application of mind. This apparent discrepancy in the impugned order itself makes the order unsustainable in law and to further that the authority concerned has not applied his mind properly.

For the aforementioned reasons, the impugned order of D.M. Saran is not sustainable and hence the same is set aside and the case is remitted back to D.M. Saran for fresh consideration and to pass a fresh order keeping in view the observations made as above.

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

Dictated and Corrected by me.

  
18/08/2018  
Commissioner  
Saran Division, Chapra.

  
18/08/2018  
Commissioner  
Saran Division, Chapra.