

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 06/2018
Raj Kumari Devi
Vrs.
The State of Bihar
ORDER

The instant revision application is directed against the impugned order passed by D.M. Saran In Supply Appeal case No. 37/2017 on 01.02.2017.

The brief facts of the case are that the petitioner Raj Kumari Devi W/o Chandrakhet Singh R/o Vill-Mashrakh (East Tola) P.S. Mashrakh, Dist-Saran was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected on 05.02.2017 at about 11.45 A.M. by Kumar Omkeshwar, SDC, and Pankaj Kumar, BSO, Parsa. In course of inspection following irregularities were found like: dealer was found absent at the time of inspection and the shop was found to be conducted by her husband Chandrakhet Singh, during verification of the k.oil stock it was found that none of the drums meant for storage of k.oil having name and licence No. of dealer, food grains were distributed irregularly and excess price was charged, 2 quintal wheat was found short in the stock. Thereafter, a report was sent to SDO, Marhaurah who in turn served a show cause notice to the petitioner for the said allegations vide memo No. 235 dt. 06.02.17 with a directions to also submit various documents relating to lifting and distribution of food grains and k.oil. In compliance to the said show cause notice, the petitioner filed her show cause reply refuting all the alleged charges levelled against her by the inspecting team. Thereafter, opinion of BSO, Mashrakh was sought for by the licencing authority on the said show cause reply of the petitioner. Then the learned SDO, finally held that the charges of irregularities levelled against the petitioner were found to be proved and he also held the petitioner to be guilty for violating the terms and conditions of PDS (control) order-2016 and accordingly he cancelled the PDS licence of the petitioner vide order contained in memo No. 285 dt. 10.02.2017. Feeling aggrieved by the said order, the petitioner preferred an appeal case vide Supply Appeal case No. 37/2017 before D.M. Saran and the said appeal was dismissed also vide order dt. 01.02.2017. On being aggrieved by the said order of D.M. Saran, the petitioner has preferred the instant revision case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner submitted that the impugned order is illegal and against the principle of natural justice as such the same is fit to be set aside. He further submitted that the learned D.M. refused to consider that the inspecting team did not record the statement of the consumers in presence of the petitioner which is legally not correct as by doing so the petitioner is deprived of his legal right to defend himself. He also submitted that the learned Court below did not give any opportunity to the petitioner to cross examine the complainant who had made any complaint against the petitioner. The learned counsel further submitted in details as to how the allegation of irregular distribution of food grains and of charging excess price for the same was a wrong allegation. He also argued that in her detailed show cause reply she controverted all the allegations but the learned SDO did not consider the same and simply held without any reasons, that the petitioner was responsible for violating the terms and conditions of PDS (control) order-2016 and on purely vague allegations, the licence has been cancelled. He also argued that actually the PDS shop was run by the petitioner and her husband only provide assistance in running the shop and actually no shortage



of wheat was found as the inspecting team wrongly did not count those four bags already opened for distribution of wheat. The learned counsel further argued that no PDS licence can be cancelled for vague charges and in support of his said contention he also filed the copies of rulings of Hon'ble High Court. He lastly said that as the learned D.M. as appellate authority, failed to consider the relevant facts of the case properly, the said order of D.M. is not sustainable in the eyes of law and the same is fit to be set aside.

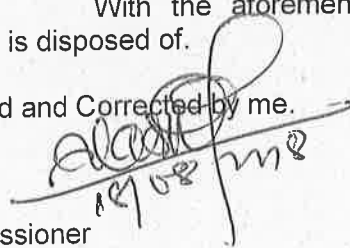
The learned Spl. P.P. appearing on behalf of the state, while opposing the submissions made by the learned counsel for the petitioner, submitted that as the petitioner was found guilty for violating the provisions of PDS (control) order-2016, by allowing her husband to run the PDS shop, the cancellation of her licence is fully justified. The learned D.M. also has passed a reasoned and speaking order having no illegality, the impugned order is fit to be upheld.

Considering the facts and circumstances of the case, material available on records pleadings forwarded by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the petitioner's licence has been cancelled for violating the condition of PDS (control) order-2016. The petitioner's claim is that all the allegations levelled against her were totally unfounded and as per biased view of the inspecting team. The learned counsel is of the strong view that the alleged charges of irregularities stated to have been found against the petitioner are no way sufficient cause for cancelling the PDS licence when the petitioner had filed documentary evidences before the licencing authority while denying the said allegations. This pleas of the petitioner's counsel seems to be justified to some extent. In fact, the husband of the petitioner was not running the shop independently rather he used to provide assistance to the dealer during rush period. Regarding shortage of food grains like wheat, the petitioner's claim is that she had already opened four bags of wheat for smooth distribution and the inspecting team instead of counting those four bags wrongly calculated that four bags were short in the stock. This plea of the petitioner's counsel also seems to be true. Thus, it appears that there is serious flaw in the inspection report vis-a-vis the actual situations existing on the spot at the time of inspection. Obviously, the licencing authority ought to have considered the pleas of the petitioner as well as various documentary evidences filed by the petitioner for denial of the said allegations. It is also seen that even the learned D.M., as appellate authority, has also not considered the facts of the case properly before passing the final order in appeal. As such the impugned orders are not sustainable.

For the aforementioned reasons, the impugned order of D.M. Saran is set aside and the case is remitted back to D.M. Saran for reconsideration and to pass a fresh and speaking order in accordance with law after hearing the parties.

With the aforementioned observations and directions, the instant revisions petition is disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.