

**In The Court of Commissioner, Saran Division, Chapra**  
**Supply Rev. No. 104/17**  
**Jang Bahadur Rai**  
**Vrs.**  
**D.M. Saran**  
**ORDER**

The instant revision petition is directed against the impugned order passed by D.M. Saran in Supply Appeal case No. 03/2017 on 08.06.2017.

The brief facts of the case are that the petitioner Jang Bahadur Rai S/o Late Sheo Pujan Rai, R/o Vill-Kamta, P.S.-Baniyapur, Dist-Saran was a PDS dealer. Further case is that the PDS shop of the petitioner was inspected by SDO, Chapra Sadar and Supply inspector-cum-BSO, Jalalpur on 29.12.16. In course of inspection following irregularities were found like; the shop was found opened and the dealer was engaged in distribution work, ration cards were found piled up on the table but non of the 100 consumers were given food grains, some consumers attached with the PDS shop of the petitioner like Deonath Rai, Shiv Jhari Devi, Sona Devi, Ganesh Rai, Sunaina Devi and Urmila Devi stated before the inspecting team that the dealer used to supply food grains irregularly and also in less quantity an excess price. Thereafter, a show cause notice was issued to the petitioner vide memo No. 1414 dt. 31.12.2016 by SDO, Chapra Sadar and in compliance to the said show cause notice the petitioner filed his reply refuting all the alleged charges. But the SDO on finding the said show cause reply to be unsatisfactory cancelled the PDS licence vide order contained in memo No. 69 dt. 31.01.2017. This led to filing of an appeal case before D.M. Saran vide Supply Appeal case No. 03/2017. The learned D.M. after hearing the matter finally vide order dt. 08.06.2017 dismissed the said appeal case. Feeling aggrieved by the said order, the petitioner has approached this Court.

Heard the learned counsel for the petitioner and the learned Spl. P.P. for D.M. Saran.

The learned counsel appearing on behalf of the petitioner at the very outset of his detailed argument submitted that the impugned order has been passed without considering the factual details of the case. He further submitted in detail as to how some people who were not the actual consumers of the petitioner shop were motivated to record their alleged statement of irregular distribution of grains and charging of excess price but the fact is that the petitioner used to distribute food grains amongst consumers on the fixed rate, fixed quantity and in correct measurement. He further submitted that during inspection the shop of the petitioner was found opened and he was engaged in distribution work and he calculated the cards of the consumers only with a view to ensure smooth distribution so that no consumers can create hungama. He further submitted that although the petitioner filed his show cause reply before the licencing authority denying all the charges but the learned SDO, without affording any opportunity of hearing cancelled the said licence and thereby principle of natural justice has been violated. While criticizing the appellate order of D.M. the learned counsel argued that the learned D.M. without going into observations/direction given by Hon'ble apex Court in SLP No. 196/2001 dismissed the case of the petitioner. He also submitted that of all the complainants alleged to be the consumers of the petitioner, only Sona Devi and Deonath Rai were the actual consumers and others like Sheo jhari Devi, Ganesh Rai and Urmila Devi were not the consumers of the petition. Deonath Rai and Sona Devi have filed affidavit with regard to distribution system of the

petitioner and they had no grievance against the dealer. He also submitted that the petitioner has not violated any terms and conditions of the PDS control order but the learned D.M. as appellate authority did not consider the relevant points raised before him and simply upheld the impugned order of SDO. He lastly submitted that the impugned order is fit to be set aside and in turn this revision petition is fit to be allowed.

The learned Spl. P.P. appearing on behalf of D.M. Saran while opposing the arguments forwarded by the learned counsel for the petitioner, submitted that serious irregularities in distribution of k.oil and food grains have been found by the SDO during inspection and for that reason his licence has been cancelled. The learned D.M. has passed a reasoned cogent and valid order as such there is no ground for interference in the appellate order. In fact, the petitioner's case is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the parties and on perusal of impugned order, it is seen that the petitioner's shop was inspected by the SDO himself and in course of inspection serious irregularities stated to have been found. The contention of the petitioner is that at the time of inspection his shop was opened and the only fault found on spot that several ration cards were stacked on the table and some consumers got recorded their statement of alleged irregularities. Regarding the said fault the petitioner's plea is that there was no ill motive for collecting the cards but he was compelled to do so only with a view to avoid extreme rush of the consumers and in order to stop chaos. The other contention of the petitioner is that of all the consumers who got recorded their statement of committing irregularities in distribution of food grains and k.oil, only two consumers were his actual consumers and rest were not his consumers but on the instigation of other people they alleged so. These pleas of the petitioner seem to be tenable to some extent in view of the fact that without examining the identify of the person, pretending to be the consumers of the licencing authority should not have taken such a harsh action of cancelling the licence of the petitioner. The learned counsel also strongly pleaded that the licencing authority without affording any opportunity of hearing to the petitioner, cancelled the licence which is against the principle of natural justice. He also submitted that the plea raised in this regard, before the learned D.M. in appeal but he did not consider the matter and simply confirmed the order of cancellation passed by the SDO. It is seen that in view of the aforementioned position, substantial justice has not been done to the petitioner.

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

With the aforesaid observation and direction, this revision petition is disposed of.

Dictated and Corrected by me.

  
01/06/2018  
Commissioner  
Saran Division, Chapra.

  
01/06/2018  
Commissioner  
Saran Division, Chapra.