

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 23/2017
Sohan Ram
Vrs.
The State of Bihar
ORDER

The instant revision petition is directed against the impugned order passed by D.M. Siwan in Supply Appeal case No. 87/2016-17 on 13.01.2017.

The brief facts of the case are that the petitioner Sohan Ram S/o Late Benga Ram, R/o Vill-Pachawara, P.S.-Siwan Mufassil, Dist-Siwan was a PDS Licencee. Further case is that the PDS shop of the petitioner was inspected on 08.03.2016 by a district level inspecting team. In course of inspection following irregularities were found; Rate-chart and stock position were not up to date, old licence No. was displayed instead of new licence No., in physical verification of the stock, one bag wheat and five bags of rice was found less; the food grains meant for Antodaya and PHH scheme were not distributed even after lifting supplying of less quantity of grains per unit to the consumers, taking of the two months coupon forcibly by supplying one months ration and making entry of two months distribution in the register besides some others irregularities. Thereafter, SDO, Siwan Sadar asked show cause for the reported irregularities from the petitioner vide memo No. 129 dt. 13.03.2016 and on finding the show cause reply filed by the petitioner to be unsatisfactory the licencing authority cancelled the licence. Feeling aggrieved by the said order, the petitioner approached the Hon'ble High Court by filing CWJC No. 100612016 which was disposed of on 19.08.16 with a direction to avail the statutory remedy of appeal. Then the petitioner filed an appeal before D.M. Siwan vide Supply Appeal case No. 87/2016-17. The learned D.M. after hearing the case dismissed the same vide order dt. 13.01.2012.

On being aggrieved by and dissatisfied with the aforesaid order the petitioner has preferred the instant revision 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 impugned order is against the settled principle of law regarding Bihar Trade Articles, Licence unification order 1984 and amendment Act.2011. He further submitted that the impugned order suffers from irregularities and infirmity because no reasons have been disclosed as to why the petitioner's show cause reply was not accepted and on what basis the same was found unsatisfactory. He also argued that the learned lower Court should have hold that non-production of document with respect to weight and measurement licence at the time of inspection is no ground for cancellation of licence and even the petitioner was not afforded any opportunity of hearing before passing the impugned order. While further assailing the impugned order of D.M. he said that the said order has been passed without applying independent mind and he has also not taken into consideration the relevant facts of the case. He further said that the petitioner can no way be held responsible for violating the terms and conditions of PDS licence or E.C. Act. The learned counsel also drew the attention towards a Govt. letter No. 1723 dt. 15.04.1996 which directs the Collector not to cancel the PDS licence of SC/ST member rather their licence be suspended only. He lastly said that as the petitioner belongs to SC category and earnings made by him as dealer of PDS is the only source of his livelihood, hence his licence needs to be restored.

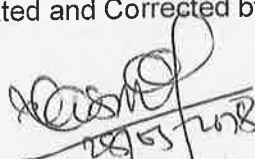
The learned Spl.P.P. appearing on behalf of the state strongly opposed the arguments forwarded by the learned counsel for the petitioner and submitted that as in the inquiry report of District level team, the allegation made by consumers are of serious nature and for that reason, the impugned order has been just and proper having no infirmity. He further said that the impugned order is fit to be upheld. This revision petition being devoid of any merit is fit to be set aside.

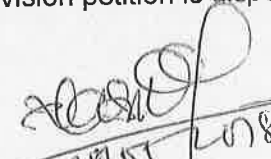
Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that the PDS licence of the petitioner has been cancelled by the licencing authority for the reason that serious irregularities were detected by the District level inspecting team during inspection of his PDS shop. The learned counsel for the petitioner is of the view that the licencing authority, SDO, Siwan Sadar without considering the show cause reply filed by the petitioner and without giving him any opportunity of hearing, cancelled the PDS licence of the petitioner which is illegal and arbitrary. It is seen that the allegations against the petitioner is not of very serious nature rather the same are of routine nature. In fact, the petitioner has not been found involved in black marketing of subsidised food grains meant for the poor. So it appears that the charges against the petitioner, although denied by him, but the same has not been considered appropriately by the appellate authority. The appellate authority ought to have considered the points raised by the petitioner to arrive at the final findings of facts relating to allegations upon which licencing authority the SDO has taken the drastic action of cancellation of licence. From the impugned order it appears that the D.M. simply held that the statement given in writing with regard to fair distribution by the complainants are after thought ploy without recoding any reasons for his such findings.

For the aforementioned reasons the impugned order is not sustainable and hence the same is set aside. The case is remitted back to D.M. Siwan for passing a fresh order in accordance with law after giving opportunity of hearing to the petitioner.

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

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.