

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 150/2014
Dharmnath Prasad
Vrs.
The State of Bihar
ORDER

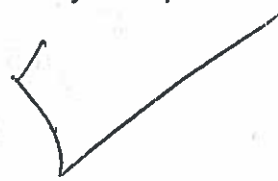
The instant revision petition is directed against the impugned order passed by District Magistrate, Saran Chapra in Supply Appeal case No. 85/2012 on 09.01.2014.

The brief facts of the case are that the petitioner Dharmnath Prasad R/o Vill-Karn-Kudaria, Block-Mashrakh, Dist-Saran was a PDS licensee having licence No. 27/2007. Further case is that the PDS shop of the petitioner was inspected by a district level inspecting team NO. 2 on 10.01.2012 constituted by the D.M. Saran. In course of enquiry, the PDS shop of the petitioner was found closed and the dealer was absent. The matter was reported to the SDO, Marhaurah who in turn vide memo No. 598 dt. 22.03.2012 issued show cause notice to the petitioner and also directed him to produce the relevant paper in original. In compliance to the said show cause notice, the petitioner filed his show cause reply on 27.03.2012 through his advocate and admitted the fact that the shop was closed on the day of inspection as the same became necessary because he was in Chapra town for treatment of her ailing wife. However, the learned SDO did not consider the said plea to be satisfactory and holding the petitioner responsible for violating the guidelines issued by the deptt. in the light of the observations made by the Hon'ble apex Court, cancelled the said PDS licence vide order contained in memo No. 2202 dt. 24.07.2012. Feeling aggrieved by the said order, the petitioner preferred an appeal case vide Supply Appeal No. 85/2012 before D.M. Saran which was dismissed vide order 09.01.2014. This led to filing of this revision petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner at the very beginning of his argument submitted that the petitioner's PDS licence has been cancelled for the single allegation that the shop was found closed at the time of inspection. He further submitted that besides that there was no any other allegations and even the petitioner hopefully admitted the fact in his show cause reply and also filed the copies of receipts of medical treatment of her wife but his said show cause reply has been rejected by the licencing authority, the SDO. The learned counsel further submitted that even the learned D.M. did not consider this important aspect of the case properly and simply went on to confirm the said cancellation order. The learned counsel also referred to a reported judgement of the Hon'ble High Court wherein it has been held that merely closing of shop is not a sufficient cause for cancelling the PDS licence. He lastly submitted that since the appellate authority has passed a vague order, the same is fit to be set aside and this revision petition be allowed.

The learned Spl. P.P. appearing on behalf of the state, on the other hand, submitted that the petitioner's shop was found closed during inspection and the said action was in violation of the guidelines given by the apex Court, the said cancellation order is fit to be upheld.



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 the impugned order, it is seen that the petitioner's PDS licence has been cancelled for the reason that the shop was found closed on the day of inspection and this lapse on the part of petitioner was taken as violation of the Govt. instructions as well as of the apex Courts direction regarding PDS shop. However, the learned counsel for the petitioner is of the view that as the petitioner himself admitted in his show cause reply that the closure of shop was necessitated due to illness of his wife but this could not impress upon the licencing authority as well as the appellate authority, the D.M rather they ought to have considered this point. The learned counsel also strongly relied upon the order of Hon'ble High Court in which it has been specifically and in very clear terms, it has been held that closure of shop for some sufficient cause is not a ground for cancellation of PDS licence. It is seen that the allegation against the petitioner is not of very serious nature as such he should not have been awarded the punishment of cancellation of his PDS licence. Moreover, the learned D.M. should have looked into the matter appropriately in appeal in the light of observation made by the Hon'ble High Court as referred above. The learned D.M. being appellate authority ought to consider this important rulings of the Hon'ble High Court while disposing of the appeal.

For the aforementioned reasons, I am not constraint to uphold the impugned order of D.M. Saran as such the same is set aside and the matter is remitted back to the D.M. Saran to pass afresh order in accordance with law after hearing the parties.

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

Dictated and Corrected by me.


16/09/2017
Commissioner
Saran Division, Chapra.


16/09/2017
Commissioner
Saran Division, Chapra.