

In The Court of Commissioner, Saran Division, Chapra
Supply Rev. No. 267/2015
Awadesh Ram
Vrs.
The State of Bihar
ORDER

2.08.17
The instant revision application is directed against the impugned order passed by D.M. Saran in Supply Appeal No. 87/2012 on 13.08.2015.

The brief facts of the case are that the petitioner Awadesh Ram S/o Late Raju Ram, R/o Vill-Chand Kudariya, P.S.-Mashrakh, Dist-Saran was a PDS lealer. Further case is that the PDS shop of the petitioner was inspected on 10.01.2012 by a district level inspecting team formed by D.M. Saran vide letter No. 309/C dt. 07.02.2012. In course of enquiry it was found that petitioner used to distribute only 2 liter of K.oil to the consumers besides some other allegation; for not distributing grains and a report to this effect was sent to the SDO, Marhaurah. Thereafter, the SDO issued a show cause notice and also directed the petitioner to produce all the relevant records of the PDS shop. The petitioner filed his show cause reply on 27.03.2012. through his advocate and stated that no inspecting team had gone to his shop because on that he himself was present in the shop and as such he prayed for discharging him from the alleged charges. However, the learned SDO, held that the said show cause reply was not sufficient to contradict the charges in absence of any solid evidence. He further held the petitioner to be responsible for violating the terms and conditions of the PDS licence and finally cancelled the said licence vide order dt. 24.07.2012. Feeling aggrieved by the said order, the petitioner preferred an appeal vide Supply Appeal No. 87/2012 before D.M. Saran and the said appeal was dismissed order dt. 13.08.2015.

On being aggrieved by and dissatisfied with the aforesaid order, the petitioner has preferred the instant revision case before this Court.

Heard the learned counsel for the parties.

The learned counsel at the very beginning of his argument, submitted that the impugned order is illegal, bad, erroneous and fit to be dismissed. He further argued that the inquiry conducted by District Transport officer is otherwise bad in law and atleast this fact should have been considered by the appellate authority that DTO has not been authorised under Bihar control order-2007 to inspect a PDS shop. He also contended that the learned Court below did not appreciate that since the adverse report was not supplied to the petitioner, it was the violation of the observation of the Hon'ble High Court. The learned counsel further submitted that the Court below ought to have considered that since the report was vague no action was admissible in the eyes of law. He lastly submitted that since the impugned order suffers from illegality, such order can not be upheld and the same is fit to be set aside.

The learned Spl. P.P. appearing on behalf of the state vehemently opposed the arguments forwarded by the petitioner's counsel and further defended the impugned order by saying that the same is just, proper and reasoned having no scope

of interference. He further said that irregularities found during inspection are of serious nature. He lastly said that impugned 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 initially the PDS licence of the petitioner has been cancelled for alleged report of irregularities found by the inspecting officer and subsequent failure of the petitioner to contradict the same through his show cause reply. The learned D.M.Saran acting as the appellate authority passed a detailed order in which, in view of the charges levelled against the petitioner and for that reason action taken against him by the SDO, Marhaurah has been confirmed. However the learned counsel for the petitioner strongly submitted that the learned D.M. Saran without going into the facts of the case and without appreciating the relevant facts properly, passed the impugned order which can not be sustained under the law. I do find some force in the said claim of the petitioner which is also very much evident from the impugned order itself as no specific reason has been assigned for the conclusion arrived at by the D.M. Saran.

For the aforesaid reasons the impugned order of D.M. Saran is not sustainable and hence the same is set aside. The case is remitted back to D.M. Saran for fresh consideration and to pass a reasoned and speaking order after the hearing the parties with a further direction to dispose of case in accordance with law.

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

Dictated and Corrected by me.


12/08/2017
Commissioner
Saran Division, Chapra.


12/08/2017
Commissioner
Saran Division, Chapra.