

IN THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) 80 OF 2012

Shri Pramod Debnath,

son of late Raman Chandra Debnath,

resident of village : Deocherra,

P.O. Deocherra, P.S. Panisagar,

District : Panisagar (Erstwhile District : North Tripura)

..... Petitioner

- Vs -

1. The State of Tripura,

represented by the Commissioner & Secretary,

Food, Civil Supplies and Consumer Affairs Department,

Government of Tripura, New Capital Complex,

P.O. Kunjaban, P.S. New Capital Complex,

District : West Tripura, PIN : 799006

2. The Commissioner & Secretary,

Government of Tripura, (Appellate Authority),

Food, Civil Supplies and Consumer Affairs Department,

New Capital Complex, P.O. Kunjaban,

P.S. New Capital Complex,

District : West Tripura, PIN : 799006

3. The Sub-Divisional Magistrate,

(The Licensing Authority),

Food, Civil Supplies and Consumer Affairs Department,

Dharmanagar, P.O. Dharmanagar, P.S. Dharmanagar,

District : Dharmanagar, (Erstwhile District : North Tripura)

..... Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Mr. A.L. Saha, Advocate

For the respondents : Mr. S. Chakraborty, Addl. G.A.

Date of hearing & order : 07.08.2015

Yes	No
	√

Whether fit for reporting :

JUDGMENT & ORDER (ORAL)

Heard Mr. A.L. Saha, learned counsel appearing for the petitioner as well as Mr. S. Chakraborty, learned Addl. Government Advocate appearing for the respondents.

2. By means of this petition, the petitioner has challenged the order dated 30.10.2011 issued by the Licensing Authority, the Sub-Divisional Magistrate, Dharmanagar, North Tripura (Annexure-III to the writ petition) and the order dated 10.01.2012 of the appellate authority, the Secretary, Food, Civil Supplies & Consumer Affairs (Annexure-6 to the writ petition).

3. The petitioner was a dealer for the Deocherra Fair Price Shop in the year 1995. On the report of the Inspector (Food), the petitioner was asked to show cause by the notice dated 10.08.2011, Annexure-I to the writ petition, to explain why he had not distributed additional 6(six) kgs. BPL rice to the BPL/AAY card holders per month. It is alleged there that he had misappropriated the said additional quantity of BPL rice for his personal gain and he had not distributed SKO and sugar to the ration card holders to their entitled full quota. He was apprised that if the reply was not satisfactory, the appropriate action would be taken. By filing a reply dated 16.08.2011, the petitioner has placed his explanations but nowhere he had denied the allegation of misappropriation by means of not distributing 6(six) kgs. BPL rice to the BPL/AAY card holders or and not distrubuting SKO and sugar to the ration card holders to

their entitled quota. He has given the reasons that for 2-3 months, 7(seven) ration card holders of BPL category had not lifted their additional quota of rice and the un-lifted stock of rice had been carried forward in the Stock Book of rice in the following month or months. He has further stated that the monthly quota of sugar of Deocherra Fair Price Shop as per card strength appears 1389 (one thousand three hundred and eighty nine) Kgs. But only 1350 (one thousand three hundred and fifty) Kgs. per month were issued against the Fair Price Shop from the end of the authority. Moreover, some shortage had occurred due to melting and odious reasons. For those reasons, some card holders might not have their full quota. Being dissatisfied with such reply, the order dated 30.10.2011 was passed by the Licensing Authority cancelling his dealership license. He was further directed to hand-over all relevant records of Deocherra Fair Price Shop. The Ration Card holders of that Fair Price Shop were attached to the Ramnagar Fair price. Shop. The petitioner being aggrieved by that order had approached this court by filing a writ petition being W.P.(C) 449 of 2011. The said writ petition was disposed by the order dated 09.11.2011 which reads as under:

“Heard Mr. D.R. Chowdhury, learned counsel appearing for the petitioner as well as Mr. S. Chakraborty, learned Addl. Government Advocate, who submits that the instant writ petition is not maintainable as there is provision of statutory appeal against the impugned order.

At this stage, Mr. D.R. Chowdhury, learned counsel appearing for the petitioner submits that the petitioner wants to withdraw the instant writ petition with a liberty to file the appropriate appeal before the statutory appellate authority.

In view of the aforesaid submissions of the learned counsel of the petitioner, the instant writ petition is disposed of with a liberty to file appropriate appeal before the appropriate authority."

4. In terms of the leave granted by the order dated 09.11.2011, the appeal under clause 11 of the of PDS (Control) Order, 2001 against the order dated 30.10.2011 was filed to the Secretary, Food Civil Supplies and Consumer Affairs, Dharmanagar, North Tripura on various grounds including that there was a conspiracy hatched up by some influential persons. But nowhere it has been stated that he was not given the report of the Inspector, based on which he was show caused. The said appeal dated 15.11.2011, Annexure-5 to the writ petition, was dismissed by the order dated 19.01.2012, Annexure-6 to the writ petition, holding that:

"In the instant case the material point is to see whether the SDM, Dharmanagar had cancelled the license of the F.P. Shop dealer without sufficient reasons. The statement given to the SDM, Dharmanagar by Shri Pramod Debnath, the then licensee of the Deocherra F.P. Shop, on 22-09-2011 is a very important document. In this statement Shri Debnath has specifically confessed that he had not distributed additional 6 kg. of BPL/AAY rice to 3/4 card holders. He had also confessed that he did not distribute K. Oil and sugar to the card holders as per the scale. The allegation of misbehaviour with the card holders by him has also been accepted. During the personal hearing before the undersigned, said Shri Pramod Debnath has identified his signature that was put on his statement given to SDM, Dharmanagar on 22.09.2011 and he had not contradicted what was written in the statement. During personal hearing Shri Debnath only mentioned that out of 4(four) paras contained in the statement dated 22.09.2011, there were only 3(three) paras while he had signed and the 4th para has been added subsequently. Even if this statement is accepted, he cannot disown his responsibility on what he had stated in his statement in para 1, 2 and 3 where he specifically accepted the charges brought against him by the SDM, Dharmanagar (Licensing Authority of Deocherra F.P. Shop). Since Public Distribution System is very sacrosanct to the people, even small deviation from the prescribed norm by the F.P. Shop dealer should not be tolerated for the larger interest of the people, and, since it is a quasi judicial process, the undersigned does not feel it necessary to go into the order details mentioned in the appeal petition since these

are also not considered very material in deciding the fate of the case.

In view of what has been stated in the proceeding paragraphs, the undersigned hereby upholds the order of SDM, Dharmanagar(Licensing Authority of Deocherra F.P. Shop) cancelling the F.P. Shop license of Shri Pramod Debnath."

5. Mr. A.L. Saha, learned counsel, appearing for the petitioner has submitted that unless it is categorically mentioned that action has been taken in the public interest, such order cannot be sustained.

6. From the other side, Mr. S. Chakraborty, learned Addl. Govt Advocate appearing for the respondents, has submitted that the entire action has been taken for protecting the interest of general public, particularly who are beneficiaries of the public distribution system and more particularly the vulnerable sections of the society such as the people living below the poverty line. Moreover, in the order dated 11.01.2012, the appellate authority has categorically stated that the deviation from the prescribed norm by the dealers of the fair-price shops should be tolerated in the larger interest.

7. Having regard to the submission made by the learned counsel and on scrutinising the records, this court finds that the allegations as levelled by the show cause notice dated 10.08.2011 was not denied, on the contrary some irrelevant and evasive reference has been made in reply to the show cause by the petitioner. That apart, from the records it has revealed that in the statement made to the Sub-Divisional Magistrate (the Licensing Authority) on 22.09.2011, the

petitioner has categorically admitted his misconduct and such statement has been referred in the order dated 19.01.2012 as passed by the Appellate Authority. As such, this court by means of judicial review should not interfere with the order dated 30.10.2011 (Annexure-III to the writ petition) and the order dated 19.01.2012 (Annexure-6 to the writ petition) respectively passed by the Licensing Authority and the Appellate Authority inasmuch as the allegations are not denied and admitted by a statement, the petitioner cannot be allowed to hold any ground to challenge those orders. What Mr. A.L. Saha, learned counsel appearing for the petitioner has strenuously argued that the report of the Inspector (Food) was not given to the petitioner and hence there was denial of the principles of natural justice. This objection has been raised for the first time in this proceeding, even not in the memorandum of appeal. That apart, what was in the report, has been fully extracted in the show cause notice dated 10.08.2011. The allegations sculpted out from the said report were not at all denied by the petitioner. Thus, such objection is without substance. In the considered view of this court, there had been no infraction of the principles of natural justice.

8. Having held so, this writ petition does not merit any further consideration and accordingly it is dismissed. There shall be no order as to costs.

JUDGE

Moumita