

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.21900 of 2015 (O&M)
Date of decision: October 13, 2015

Vijay Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Rajiv Kataria, Advocate
for the petitioner.

HARINDER SINGH SIDHU, J.

Challenge in this petition is to the order dated 9.8.2011 (Annexure P-10), whereby, license of the petitioner for a ration depot under Public Distribution System (PDS) was cancelled by respondent No.2, and also the order dated 28.5.2015 (Annexure P-13), whereby, his appeal against the aforesaid order was dismissed by respondent No.5.

Facts, as detailed in the petition, are that vide order dated 2.2.1993 (Annexure P-1), the petitioner was appointed as authorised fair price depot holder by the Government for distribution of Wheat Atta, Rice, Bajra, Sugar, etc. in Ward No.6, Safidon, District Jind. Some time in June, 2011 a complaint was received regarding some irregularities committed by the petitioner while

distributing the ration articles. That was enquired into by the Deputy Director, Food and Supply Department, Government of Haryana and as serious irregularities were found during the enquiry, vide order dated 9.7.2011, the supply of the articles to the depot of the petitioner were suspended. The petitioner was issued show cause notice dated 26.7.2011, to which the petitioner filed reply dated 1.8.2011. Finally, vide order dated 9.8.2011 (Annexure P-10), the PDS (Public Distribution System) license of the petitioner was cancelled. The appeal filed by the petitioner thereagainst was dismissed on 28.5.2015.

Hence this writ petition.

I have heard Learned counsel for the petitioner and gone through the paper-book of the case.

Learned counsel for the petitioner has contended that no opportunity of hearing was given to the petitioner before passing of the impugned order Annexure P-10. He has also made allegations against one Daljit Punia, the then Inspector, Department of Food and Supplies and his collusion with Rambir, complainant in the case.

So far as the plea of not providing any opportunity to the petitioner before passing the impugned order Annexure P-10 is concerned, a perusal of the paper-book reveals that after serious irregularities e.g. charging excess amount in comparison to fixed price pertaining to ration items, not issuing the ration articles to the card holders, etc. were found during the enquiry, the supply of necessary articles to the petitioner – Depot Holder was suspended

till further orders. On 26.7.2011 (Annexure P-8), referring to statements/allegations of about 35 depot card holders, show cause notice was issued to the petitioner. The petitioner submitted his reply on 1.8.2011. It was only after considering , the reply of the petitioner and granting him personal hearing that the impugned order dated 9.8.2011 (Annexure P-10) was passed, the relevant part whereof is extracted below:-

“After careful perusal of the written reply to the SCN and listening to the depot holder at length, the depot holder is proved guilty of misappropriation, befooling to poor, innocent, under-privileged and less aware consumers. He refutes the allegations levelled against him flatly but fails to give any logical, rational and justified reason in support of his claims. He just tries to act over smart by finding fault with the show cause notice issued to him as he might not be having any concrete reasons/evidence to defend himself. Instead of giving any solid evidence/ witness in his favour, he outrightly rejects the findings of the Enquiry Team simply ignoring the fact that it was conducted by a senior officer of the rank of Deputy Director, Headquarter, Chandigarh, Food and Supplies Department. He writes in his reply that he was not at fault as the consumers gave statements in his favour whereas in the SCN issued to him as many as 35 consumers have reported being issued lesser quantities, overcharging, not getting kerosene oil, etc., but he give no justification/ reason for it. Listening to the depot holder, it seems that his only objective is to delay the matter in order to think of some manipulations to hush up the matter. Statements of the consumers recorded during door to door survey reflected

that there was no uniformity in the distribution rate/scale of various essential commodities e.g., BPL/AAY wheat, sugar, Kerosene oil etc. The consumers were not aware of the actual quantity to be distributed to them and the rate being charged from them. The depot holder seems to have taken advantage of it and cheated some of them by issuing lesser quantities, some by overcharging and possibly by less weighment of wheat and sugar as the amount being charged from some was even less than the actual one which indicates that he might not have issued the actual weight but lesser than that...”

Challenging the aforesaid order, the petitioner filed CWP No.15022 of 2011, which was disposed of on 6.1.2015, with liberty to the petitioner to avail the remedy of appeal.

Thereafter, the petitioner challenged the order Annexure P-10 before the Deputy Commissioner, Jind – respondent No.5 by filing appeal as per the provisions of the Haryana Public Distribution System (Licensing & Control) Order – 2009, which has been dismissed after taking note of the irregularities found during enquiry, which was carried out upon the orders of Hon'ble Lokayukta.

Thus there is no merit in the contention of the Ld. Counsel for the petitioner regarding the violation of the principles of natural justice.

Ld. Counsel for the petitioner has also argued that some of the complainants mentioned in the enquiry report have submitted affidavits that they have no complaint against the petitioner. Two such affidavits have been annexed with the petition. He also states that the enquiry was got conducted at 10.00 P.M. at night which

raises suspicion regarding the intention of the enquiry officer.

In my view, the above two arguments are also of no avail to the petitioner. The enquiry report makes a mention of at least 35 consumers making allegations of receiving lesser quantities or overcharging and merely because two of the them have subsequently given affidavits stating that they have no complaint against the petitioner is no ground to disbelieve the enquiry report. Further, if the statements of some of the consumers have been recorded at 10.00 P.M. that is also no reason to doubt the veracity of the report.

There is nothing on record to substantiate the allegations of the petitioner that the enquiry was manipulated or fabricated to ensure the cancellation of the licence of the petitioner. The inspection was carried out by the Joint Director Food and Supply Department, Chandigarh on the orders of the Lokayukta and the allegations of malafide are therefore clearly unsubstantiated.

Thus, there is no merit in the petition and the same is dismissed in limine.

October 13, 2015

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**(HARINDER SINGH SIDHU)
JUDGE**