

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.10301 of 2015
Date of Decision: 12.03.2018

M/s. Mukand Lal and Sons

. Petitioner

Vs.

Secretary, Food Civil Supply and Consumer Affairs, Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Naresh Prabhakar, Advocate,
for the petitioner.

Ms.Bhavna Gupta, DAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the orders dated 29.9.2011, 2.12.2011 and 6.12.2013 by which its wholesale kerosene dealer (Licence No.4) has been cancelled in terms of the provisions of the Punjab Light Diesel Oil and Kerosene Licensing Order, 1978 [for short 'the Order'].

In brief, on 30.05.2011, petitioner was served with a *show cause notice*, on a complaint filed by the Food and Supply Officer, Ferozepur, in which it has been observed that on 18.2.2011, 12000 ltr. oil was distributed without seen (verified), for making alteration in register, not getting the signatures of the depot holders on the sale register regarding the issuance of kerosene, issued the incorrect slips and on 18.2.2011 at Sr. No.7, 8 and 18, 1950 ltr., 1200 ltr. and 880 ltr. Oil has been issued and alteration has been done by giving the remarks. The petitioner was called upon to

submit its reply to the *show cause notice* and during this period the licence of the petitioner was suspended vide order dated 26.7.2011. The said order was challenged in appeal by the petitioner under Clause/Section 12 of the Order. The order of suspension was upheld by issuing a direction to the Licensing Authority, Ferozepur that the case of the petitioner be decided by passing a speaking order after affording an opportunity of hearing. Accordingly, the opportunity of personal hearing was afforded by the DFSC, Ferozepur and fresh *show cause notice* was issued on 26.7.2011 highlighting various discrepancies/irregularities committed by the petitioner. Reply to the *show cause notice* was filed by the petitioner on 4.8.2011 and the petitioner was given personal hearing. Atul Sharma, partner of the petitioner-firm gave in writing on 27.9.2011 that he does not want to submit anything else except written reply. Respondent No.3 after taking into account the allegations against the petitioner and the reply coupled with the evidence brought on record, concluded that the allegations against the petitioner has been proved and passed the order of cancellation of licence of the petitioner. The said order was challenged by way of an appeal in terms of Section/Clause 12 of the Order but the same was also dismissed on 2.12.2011. The petitioner then filed the revision under Section/Clause 12A of the Order which was also dismissed on 6.12.2013.

Although learned counsel for the petitioner has vehemently argued that as a usual practice, the kerosene oil is delivered to the depot holder and if the depot holder is not available or is not ready to get the delivery of kerosene oil then the name of that depot holder is deleted and the name of the other depot holder, to whom the kerosene oil stands delivered, is

entered. It is further submitted that the officials of the department did not see the supply of kerosene oil from 18.2.2011 to 24.2.2011 because of which it could not deliver kerosene oil to any of the depot holder for which notice was issued to the petitioner and a fine of ₹2000/- was imposed which cannot be made a ground for a fresh cause of action as it amounts to double *jeopardy*. It is further submitted that the petitioner has produced the relevant record which has been misread by the respondents.

I have heard learned counsel for the parties in detail and perused the available record with their able assistance.

There is no dispute that the impugned orders have been passed after following the due procedure much less the principle of natural justice as the petitioner has been afforded ample opportunity to lead its evidence and to orally state its case before the authorities who have decided the *lis*. It is a case of recording of finding of fact on the basis of appreciation of evidence available on record, lead by the parties. Hence, there is hardly any scope for interference in this petition.

Dismissed.

12.03.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*