

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

CWP No.8918 of 2018
Date of Decision: 16.04.2018

Ram Kishan

. Petitioner

Vs.

State of Haryana and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.V.S. Rana, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed for the issuance of a writ in the nature of certiorari for quashing the orders dated 11.1.2017 and 18.12.2017, both passed by the District Food and Supplies Controller, Jhajjar and the order dated 6.2.2018 passed by the Deputy Commissioner-cum-Collector, Jhajjar dismissing the appeal of the petitioner.

The petitioner is running a ration depot at village Islamgarh Chhuchakwas, Tehsil Matanhel, District Jhajjar in terms of the provisions of the Haryana Public Distribution System (Licensing Price Control) Order, 2009 [for short 'the Order']. On account of some complaints received by the District Food and Supplies Controller, Jhajjar, an enquiry was conducted and on finding discrepancies/irregularities in the enquiry report a *show cause notice* was given to the petitioner to answer the allegations made against him but vide order dated 22.11.2016, the licence giving to him for running the ration depot was suspended. The petitioner was also asked to appear in

person for personal hearing on 09.01.2017 but neither he appeared nor sent any information in writing about his inability to appear before the District Food and Supplies Controller, Jhajjar. Therefore, the District Food and Supplies Controller, Jhajjar passed the order on 11.01.2017 for cancelling the licence of the petitioner. The said order of the District Food and Supplies Controller, Jhajjar dated 11.1.2017 was challenged by the petitioner in appeal. The said appeal was allowed by the appellate authority and the case was remanded back with a direction that while keeping the PDS license of the depot holder under suspension, the complete record and all the complaints be included in the enquiry and after giving full opportunity of hearing to the appellant, order be passed on the basis of the evidence. After remand, the matter was again placed before the District Food and Supplies Controller, Jhajjar, who has so recorded in his order, which was decided on 27.12.2017, upholding the order dated 11.1.2017, that the petitioner was called for personal hearing on 18.12.2017. The petitioner appeared and was personally heard. Thereafter the impugned order was passed. Against the said order, the petitioner filed appeal as provided under the Order but the said appeal has also been dismissed by the impugned order passed by the appellate authority on 06.02.2018.

Learned counsel for the petitioner has started arguing that the petitioner has not been given an opportunity of hearing in terms of the proviso to Clause 13 of the Order. It is submitted that on 9.1.2017, the petitioner was down with dengue, therefore, he could not appear before the District Food and Supplies Controller, Jhajjar, though he had informed him orally about his illness but the District Food and Supplies Controller, Jhajjar

passed the impugned order on 11.1.2017. The petitioner has also attached an order passed by this Court rendered in CWP No.14346 of 2015, decided on 14.03.2016 as Annexure P-6, to strengthen his argument in regard to Clause 13 of the Order to canvas that the opportunity of hearing is provided in the Order itself, therefore, it cannot be denied. On a pointed question, whether this issue was raised before the appellate authority that he was not given an opportunity of hearing, the petitioner has submitted that the appellate Court has not dealt with it but in the grounds of appeal it was raised.

Be that as it may, the whole emphasis of the petitioner is that he was not given a personal hearing on 9.1.2017.

I have heard learned counsel for the petitioner and after considering the facts and circumstances, much less the fact that the order dated 11.1.2017 was set aside by the appellate authority and the matter was remanded back to decide it again after considering the complete record and all other complaints and after providing full opportunity of hearing, fresh order be passed. The petitioner was called for personal hearing on 18.12.2017 in pursuance of which he had appeared and was given personal hearing. There is no denial to this fact, therefore, it does not lie in the mouth of the petitioner to contend that the impugned order has been passed without affording an opportunity of hearing rather the petitioner has tried to mislead the Court by referring to the proceedings dated 9.1.2017 in order to get a favourable order on the ground that he has not been granted opportunity of hearing at the time when order dated 11.1.2017 was passed. Although the act and conduct of the petitioner is totally deprecable but I would not pass any order as to costs. However, the petition is dismissed on the ground of the

false statement made by the petitioner during the course of hearing as well as on merits.

16.04.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned :

Yes/No

Whether Reportable :

Yes/No