

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

**CWP-31305-2018 (O&M)
Date of decision : 29.04.2019**

Satish Kumar

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Zorawar Singh Chauhan, Advocate,
for the petitioner.

Mr. Vivek Saini, DAG, Haryana.

JITENDRA CHAUHAN, J.

Prayer in the instant petition is for setting aside the order dated 12.07.2018 (Annexure P-7), passed by the respondent No.3, whereby, the ration depot of the petitioner was cancelled; and order dated 06.11.2018 (Annexure P-9) passed by respondent No.2, vide which the appeal preferred by the petitioner was rejected.

It is contended that the petitioner, aged 62 years with physical disability to the extent of 70%, had been earning his livelihood by running the fair price shop/ration depot in question for the last 10 years. On 15.06.2018, the depot of the petitioner was inspected by the Investigation Officer and it was alleged in the report that the depot holder neither had opened the depot nor he came forward to assist in the investigation. The petitioner was issued show-cause notice dated 11.07.2018 (Annexure P-5)

to which he submitted his reply. However, without considering the reply, the depot of the petitioner was cancelled by passing impugned order dated 12.07.2018 (Annexure P-7). Learned counsel refers to the Haryana Public Distribution System (Licensing and Control) Order, 2009 (for short, 'the 2009 Order') to contend that there is no provision to cancel the licence if the shop is closed for one day.

On the other hand, learned State counsel submits that a report was received from the Assistant Food and Supplies Officer, Nuh, who inspected the depot of the petitioner along with two inspectors of the Department to the effect that the shop was found closed during inspection. The petitioner was summoned through telephonic message but he did not come present. The team then carried out physical inspection of the depot in the presence of respectables of the area and several irregularities were noticed. The petitioner was issued a show-cause notice and the due procedure was followed before passing the impugned order. The petitioner neither obtained prior permission for closing the depot nor displayed any notice regarding the same.

Heard.

The licence of the petitioner can be cancelled under Rule 13 of the 2009 Order if there is any violation of the terms and conditions of the licence. It has been specifically provided under the rules that in case, penal action is to be taken against the depot holder, reasonable opportunity of being heard has to be afforded. It is to be noted that the petitioner filed the reply to the show-cause notice on 12.07.2018 (Annexure P-6). On the same day, the impugned order dated 12.07.2018 (Annexure P-7) was passed by

respondent No.3. Even otherwise, the show-cause notice (Annexure P-5) is not sustainable as it does not mention the allegations in detail. Charge No.1 in the show cause notice reads that “After repeated asking, you have neither opened Ration Depot nor assisted in investigation”, is self-contradictory. If the petitioner had not opened the fair price shop on that day, then there was no occasion for him to present himself to assist in the investigation. In the absence of the petitioner, the depot could not have been opened.

Charge No.2 in the show-cause notice is that “Eleven ration card holders have got recorded their statement regarding obtaining the thumb impression without giving ration to them for the months of April and May”. However, neither the names of such eleven ration card holders have been disclosed, nor any document or affidavit of any complainant has been put forth. Rather the conduct of respondent No.3 in issuing show cause notice on 11.07.2018 calling upon the petitioner to appear on 12.07.2018 and thereafter cancelling the licence on that very day speaks volume about the haste in which the impugned order had been passed.

In view of the above discussion, the instant petition is allowed; impugned orders dated 12.07.2018 (Annexure P-7) and 06.11.2018 (Annexure P-9), are hereby quashed.

Allowed.

29.04.2019
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No