

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

CWP-24323-2017

Date of decision: 24.02.2020

Amandeep

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Narender Kaajla, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

RITU BAHRI, J. (Oral).

By this petition, the petitioner is seeking quashing of order dated 27.01.2017 (Annexure P-6) passed by Collector-cum-Deputy Commissioner, Fatehabad-respondent No.2 and order dated 27.07.2016 (Annexure P-4) passed by District Food and Supply Controller, Fatehabad-respondent No.3 whereby the Ration Depot license of the petitioner has been cancelled and the security amount has been forfeited.

The petitioner holds a license No.FTB/PDS/479 for running a Ration Depot in village Jakhal Tehsil Tohana District Fatehabad under the scheme of Haryana Public Distribution System (License and Control) Order, 2002. Copy of the license is Annexure P-1. The shop of the petitioner was inspected on 27.06.2016 by Sub Divisional Officer (Civil) Tohana alongwith Sh. Murari Lal Singla, Assistant Food and Supply officer, Sh. Vikas Kumar, Inspector Tohana and Ramesh Kumar Sub Inspector Jakhal.

As per the directions of the officers, the petitioner thereafter appeared on

28.06.2016 before the Sub Divisional Officer (Civil) Tohana alongwith complete record and explained everything to him. The petitioner was exonerated by giving him oral warning. The Assistant Food and Supply Officer Tohana vide letter dated 01.07.2016 prepared a report to the District Food and Supply Controller, Fatehabad raising some irregularities. Vide letter dated 04.07.2016, the supply of the Ration Depot was suspended. Thereafter a show cause notice was given to the petitioner vide office letter dated 21.07.2016 (Annexure P-2) for cancellation of Ration Depot by forfeiting the security deposited by the petitioner. In response to show cause notice dated 21.07.2016, the petitioner gave his detailed reply (Annexure P-3). Thereafter vide order dated 27.07.2016 (Annexure P-4), the District Food and Supply Controller, Fatehabad cancelled the license of Ration Depot and forfeited the security amount of Rs.1,000/-. The petitioner filed appeal (Annexure P-5) against the order dated 27.07.2016 before the appellate Authority i.e. District Collector, Fatehabad and he vide order dated 27.01.2017 (Annexure P-6) dismissed the appeal and hence this writ petition has been filed.

On notice of this petition, reply has been filed on behalf of respondents No. 1 to 3. In para 5 of the preliminary submissions, it has been explained that as per the report given by Assistant Food and Supply Officer, Tohana who inspected the depot of the petitioner found the same to be closed and while inspection several irregularities were found in the depot. The petitioner was called for inspection of depot through telephonic message but his cellphone was found switched off. The Officer again went physically to inspect the depot in the presence of respectable members of the area and found several violation of the PDS Control order and thereafter

on the direction of SDO (Civil), Tohana, the petitioner was called along with complete record for personal hearing on 28.06.2016 but the SDO (Civil), Tohana was not satisfied during personal hearing with regard to absence from depot after lunch time which is the violation of PDS Control Order 2009 (hereinafter referred to as Order, 2009). Apart from this, the Kerosene Oil was found less from the prescribed quantity and in the record the sale of Kerosene Oil was shown in excess. The stock register and the sale register were not duly filled as several entries were missing in the registers. On receipt of the report from Assistant Food and Supply Officer, Tohana, the supply to the depot was suspended from 04.07.2016 and petitioner was issued show cause notice dated 21.07.2016 for violation of Order, 2009. Copy of the inquiry report is Annexure R-1 and show cause notice dated 21.07.2016 is Annexure R-2. The reply of the petitioner is Annexure R-3. Copy of the PDS Control Order 2009 is Annexure R-4. Order dated 27.07.2016 whereby the license of the Ration Depot was cancelled is Annexure P-4.

A perusal of the notification dated 13.07.2009 which is the PDS Control Order 2009 shows the manner in which responsibilities and duties of food price shop has to be carried out. Rules 9 and 10 deal with the responsibilities of the dealers and Rule 11 deal with the infrastructure and facilities at business premises to be arranged by the dealers. Rule 12 deals with maintenance of accounts and Rule 13 deals with contravention of conditions of license or control order which reads as under:-

“13. (1) No holder of a license issued under this order shall contravene any of the terms or conditions of the license or of any control order issued under the Act. If he contravenes any of the said terms or conditions, without prejudice to any other

action that may be taken against him, the supply shall be suspended immediately without giving any notice. If the licensing authority is satisfied that the licensee has contravened any of the conditions of the license or is not performing his/her responsibility and duties properly, the licensing authority shall take one or more actions against the licensee as mentioned below:- i) forfeiture of the security deposit in full; ii) cancellation of the license and forfeiture of the security deposit in full ; iii) registration of criminal case as per provisions of the Act.

Provided that no order with regard to above mentioned penal action shall be made under this clause unless the licensee has been given a reasonable opportunity of being heard.

- (2) The licensee shall, if the amount of security at any time falls short of the amount specified in sub clause (1) of clause 7, forthwith deposit further security to make up the amount on being required by the licensing authority to do so.
- (3) Upon compliance with all obligations under the license by the licensee, the amount of security deposit or such part thereof, which is not forfeited as aforesaid, shall be refunded to the licensee after termination of the license by the licensing authority.
- (4) The licensing authority may by a written order, suspend the license of a Fair Price Shop Owner, if a proceeding under sub-clause (1) of this clause has been initiated against the Fair Price Shop Owner, and the said licensing authority is satisfied that it is not in the interest of the smooth operation of the Public Distribution System to allow the dealer or the Fair Price Shop Owner to handle the Public Distribution System stocks. No prior notice shall be necessary before passing any order under this sub-clause.

Explanation.- For the purpose of this sub-clause, the proceedings under subclause (1) shall be deemed to have been initiated on the date of issue of the show-cause notice by the licensing authority.

(5)No prior show cause notice shall be required for withholding the allocation of quota to any licensee for a period not exceeding sixty days pending inquiry or investigation against the licensee, if the licensing authority has reasons to believe that the licensee has not maintained proper and correct accounts in respect of the quota allocated to him earlier or has diverted the Public Distribution System stocks or committed any other irregularities.”

The petitioner appeared before SDO Civil on 28.06.2016, however the reply of the petitioner was not found satisfactory. As per the inquiry report dated 01.07.2016 (Annexure R-1) by Assistant Food and Supply Officer, Tohana, the petitioner was not present when the inspection was carried out and physical verification was done in the presence of Sh. Mal Ram son of Sh. Munshi Ram and Sh. Gursharan son of Sh. Buta Singh. After inspection of the stock register and physical verification of the depot, the following position was found:-

Sr. No.	Name of Article	Balance stock as on 1.6.16	Receipt	Total quantity	Sale	Balance stock	Found after physical verification	Less/excess
1.	Kerosene Oil	540 ltrs	580 ltrs	1120 ltrs	1120 ltrs	Nil	20 ltrs	20 ltrs excess
2.	Dal	17 kg	Nil	17 kg	Nil	17 kg	12.500 kg	4.500 kg less
3.	Sugar	38.800 kg	3 qtls	338.800 kg	258 kg	80.800 kg	80 kg	800 gm less
4.	Wheat AAY	4.55 qtls	4.55 qtls	9.10 qtls	4.55 qtls	4.55 qtls		
5.	Wheat CBPL	13.75 qtls	13.75 qtls	27.50 qtls	13.75 qtls	13.75 qtls		
6.	Wheat SBPL	26.50 qtls	26.50 qtls	53 qtls	26.50 qtls	26.50 qtls		

7.	Wheat OPH	20.95 qtls	16.50 qtls	37.45 qtls	20.95 qtls	16.50 qtls		
	Total wheat	65.75 qtls	61.30 qtls	127.05 qtls	65.75 qtls	61.30 qtls	60 qtls	1.30 qtls less

During physical inspection, no filled or empty drum was found whereas 58 litres oil was supplied to depot on 17.06.2016 and only 20 litres Kerosene Oil was found. However, in stock register the oil was shown as zero. The stock register of Kerosene Oil was not completed after 25.06.2016 and in the sale register it was found that for the month of June, 2016 total stock was found to 108 litres in excess. The petitioner did not complete the stock register of Dal w.e.f. 01.06.2016, wheat stock register of AAY/OPH/CBPL after 25.06.2016 and wheat stock register of SBPL after 23.06.2016 Further Board of the stock and rate was not affixed at depot. No list of BPL and AAY card holder at depot was found affixed.

The written statement was filed on 03.04.2018 and no replication has been filed to deny the inspection report (Annexure R-1) and the Order, 2009 (Annexure R-4).

Keeping in view detailed inquiry, the supply of stock was suspended and the petitioner was issued show cause notice dated 21.07.2016 (Annexure R-2) as per Order, 2009 (Annexure R-4) to which he gave reply (Annexure R-3) and thereafter the impugned order dated 27.07.2016 (Annexure P-4) was passed. The procedure contemplated under Rule 13 of PDS Control Order 2009 has been duly followed by giving him show cause notice as petitioner had contravened the conditions of license as reflected in the inquiry report (Annexure R-1).

Learned counsel for the petitioner has referred to the order dated 27.01.2017 (Annexure P-6) and contends that appellate authority has not given detailed reasons for dismissing the appeal. This argument is liable

to be rejected as in the initial order dated 27.07.2016 (Annexure P-4) whereby license was cancelled, details of the irregularities/errors were mentioned such as non-maintenance of stock registers of Kerosene Oil, pulses, wheat stock register of AAY, OPH, CBPL and SBPL. No amount is shown in the sale register of Kerosene Oil and sugar from the cardholders. The petitioner did not display the rate and stock on depot. List of BPL and AAY cardholder was not found in depot which were the mandatory responsibilities reflected in the form of license (Annexure P-1). The license (Annexure P-1) further provides that the petitioner was bound by all the provisions of PDS Control Order.

Since petitioner had contravened the terms and conditions of the license (Annexure P-1) as is evident from the inquiry report (Annexure R-1) and the same is reflected in the order cancelling his license dated 27.07.2016 (Annexure P-4), no ground to interfere in the orders dated 27.07.2016 (Annexure P-4) and 27.01.2017 (Annexure P-6) is made out.

Dismissed.

(RITU BAHRI)
JUDGE

24.02.2020
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No