

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

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**CWP No.11437 of 2020 (O&M)
Date of Order:08.02.2021**

Ranbir Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Rupinder Kaur Thind, Advocate,
for the petitioner.

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner is a depot holder under the respondent-State for distributing various essential commodities. On receipt of a complaint, an enquiry was conducted by the District Food and Supplies Controller, Sirsa and his licence was ordered to be suspended. The petitioner filed an appeal before the Deputy Commissioner, Sirsa, which has been accepted and the order of suspension of licence of the petitioner has been set aside while remitting the matter back to the District Food and Supplies Controller, Sirsa, to conduct physical inspection and thereafter, re-decide the matter while providing opportunity of personal hearing to the appellant and others. The operative part of the order dated 10.07.2020, is extracted as under:-

“That the appellant is depot holders of village Kashi K Bass, Tehsil Ellenabad, District Sirsa, vide PDS No.531/SSA. This depot was allotted to him in the year 2006 and since then he is running this depot and has been distributing the essential commodities to the ration Card Hodlers of this village, as per rules and the instructions and the directions of the Department. False complaint has been made against the appellant that he has not properly distributed to the AAY ration card

holders. He further stated that till date, there has been not complaint against him. The ration card holder are completely contended with the work of the appellant. He has produced the statements of the residents of the village in support of his contention. He has further stated that before suspending the supply of ration to the appealing, no show-cause notice has been issued to him nor an opportunity of personal hearing has been granted to him. Further order under appeal has been filed without any enquiry and the order has been passed by a clerk but not by the District Food and Supply Controller, Sirsa which is an illegal and non speaking order and liable to be set aside. He has further argued that the family of the appellant is dependent upon the Depot. There is no other source of livelihood for the appellant and he has prayed that the present appeal be accepted. The employee present on behalf of respondent Sh. Satish Kumar Clerk that complaint had been received against the Depot Holder for less supply of ration to the AAY card holders and misappropriation of ration which was investigated by the Assistant Food and Supply Officer, Ellenabad. During enquiry, it was found that the Depot Hodler had supplied inferior quality of wheat in place of PDS wheat to the card holders. In this regard, the joint statement of ration card holder and other applicant Ration card Holder was taken, according to whom the distribution of ration was not properly done by the depot holder and it was requested that the license of the depot holder be cancelled. On the basis of these irregularities, the order dated 10.07.2020 passed vide case No.30/20 for suspension of supplies to the Depot was passed and show cause notice was issued to the appellant but he did not file any reply to the same. During arguments, the photocopy of the complaint against the depot holder was produced from which it was found that it is not clear at all that the depot holder has contravened the Rules of PDS. Besides that, no evidence is there with regard to issuance of show cause notice to the depot holder for that opportunity of personal hearing was granted to him. Moreover, the impugned order has not been passed by the District Food and Supplies, Sirsa but by a Clerk which is a grave irregularity. In view of this, the order dated 18.04.2020 is set aside and the appeal is accepted and the supply of provisions to the Depot of the appellant is restored and remanding the case to the District Food and Supply Controller, Sirsa. It is directed that he shall conduct the physical inspection of Depot and after providing personal hearing to the appellant and complete opportunity shall decide the case on the basis of merits and de-merits and by passing a speaking order.”

The petitioner has assailed the correctness of this order on the ground that the Deputy Commissioner, Sirsa, while exercising the powers of appellate authority, has no power to remand the matter back to the authorities subordinate to it. It has been contended that once the Deputy Commissioner found no material against the petitioner, then the appeal should have been accepted in toto and there was no requirement to remand the case.

This court has heard learned counsel for the petitioner and perused the paper book.

On a court question, learned counsel for the petitioner admitted that in the PDS control order, there is no prohibition on remand of the matter. The appellate authority would be deemed to have inherent powers to remand the matter, if it is found that some further proceedings are required to be taken. On careful reading of the operative part of the order which has been extracted above, it is apparent that the Deputy Commissioner while remanding the case has directed the authorities to conduct physical inspection of the depot and also grant opportunity of personal hearing to the petitioner.

In such circumstances, no ground to interfere is made out. However, it shall be open to the petitioner to take all the defences, as are available in law, and the District Food and Supplies Controller, Sirsa, will pass an order without being influenced by disposal of the present writ petition.

Disposed of accordingly.

February 08, 2021

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Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)
JUDGE

: Yes/No

: Yes/No