

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

-.-

CWP No. 21315 of 2021

Date of decision: 01.11.2021

Khurshid

.....*Petitioner*

Versus

State of Haryana and others

.....*Respondents*

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

In virtual Court

Present: Mr. Johan Kumar, Advocate
for the petitioner

Mr. Rajesh Gaur, Additional Advocate General, Haryana

-.-

Rajbir Sehrawat, J. (Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of certiorari for quashing impugned order dated 19.05.2020 (Annexure P-5) passed by respondent No. 3 and impugned order dated 15.03.2021 (Annexure P-6) passed by respondent No. 2, vide which the PDS Licence/Depot Licence of the village Lakhnaka; of the petitioner; was cancelled and surety deposited by the petitioner was ordered to be forfeited. Further prayer has been made to issue a writ in the nature of mandamus, directing the respondents to restore the PDS Licence of the petitioner as also during pendency of the writ petition, operation of the impugned orders

be stayed.

The contention of the petitioner is that the authorities have acted against him in an arbitrary manner while cancelling his Public Distribution System Licence (in short, 'the PDS Licence'). Complaints were made against the petitioner by some interested persons due to party faction in the village. Otherwise, the petitioner had never committed any irregularity and he was distributing the ration, as per the terms and conditions of the distribution of the ration under the scheme. Counsel for the petitioner has also submitted that the fact of the entire exercise being *mala fide* is evident from the fact that after the PDS licence of the petitioner was cancelled, brother-in-law of one of the complainants, i.e. respondent No. 4, has been granted the PDS Licence. Counsel for the petitioner has also submitted that no proper inquiry has been conducted in the matter before taking the impugned action against him. Hence, the impugned order is totally illegal and liable to be set aside.

Notice of motion.

Mr. Rajesh Gaur, Additional Advocate General, Haryana accepts notice on behalf of the respondents and has submitted that the licence for distribution of ration under the scheme is a temporary permission. If the authority suspects any irregularity in the distribution of ration, then the competent authority is fully entitled to revoke the PDS Licence. The Licencee does not have any statutory or legal right to continue as such; under any of the provision of the law. The said licence can be terminated at any time by the competent authority for the reasons mentioned in the Public Distribution System (Licensing and Control)

Order, 2009 (in short, 'the PDS Control Order 2009').

It is further submitted that in the present case, several complaints were received from the residents of the village qua various irregularities being committed by the petitioner, including the non-distribution of ration; taking thumb impressions of the beneficiaries without actually distributing the ration to them; and also; misappropriating the ration, supplied to the petitioner for further distribution. The complaints made by the residents were considered by the competent authority. The statements of the complainants and other residents of the village; members of the Panchayat as also of the petitioner were duly recorded by the authorities. However, after finding reasons to believe that the petitioner committed number of irregularities in the public distribution under the PDS Licence, the licence of the petitioner has rightly been cancelled. Hence, the instant writ petition deserves to be dismissed.

Having heard counsel for the parties and having perused the case file, this Court does not find any substance in the arguments raised by counsel for the petitioner. As per the record, several residents of the village, who otherwise, are the beneficiaries under the PDS scheme, have made positive complaints against the petitioner. Upon that, an inquiry in the matter was conducted by the competent authority. Even the petitioner was associated with the process of inquiry. During that process, the statements of various beneficiaries, Sarpanch, Panches and Numberdar of the village have also been recorded by the said authority. Not only that, even the petitioner was granted an opportunity to make his statement qua the allegations. After considering everything on record, the competent

authority has arrived at a conclusion where it has reasons to believe that the petitioner was not distributing the ration as per the PDS scheme. Hence, this Court does not find any illegality or irregularity with the impugned orders passed by the competent authority.

Although, counsel for the petitioner has submitted that the competent authority has not conducted a proper inquiry and has not granted any opportunity to the petitioner to cross examine the witness(es) so as to extract the truth from them, however, in the considered opinion of this Court, this is not the scope of an inquiry contemplated under the PDS Control Order 2009. The only requirement under clause 13 of the said order is that in case of cancellation of the licence and forfeiture of the security deposit or registration of criminal case, a reasonable opportunity of being heard shall be granted to the Licencee. However, no requirement of holding of a regular inquiry in any particular manner has been prescribed under the PDS Control Order 2009. *Per contra*, sub-clause (4) of Clause 13 of the 2009 order, prescribes that if proceedings under sub-clause (1) of this clause have been initiated against the Fair Price Shop Owner, and the said licencing 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, then no prior notice shall be necessary before passing any order under this sub-clause. It is further prescribed in the PDS Control Order 2009 that no prior show cause notice shall be required for withholding the allocation of quota to any licensee for a specified period. Hence, cancellation of Licence under Public Distribution System as contemplated under the PDS Control

Order 2009, is more or less in the nature of discretion of the competent authority, subject to compliance of the minimum requirements of the natural justice before depriving the petitioner of his PDS Licence. Those requirements have duly been complied with by the competent authority, as mentioned above, by taking into consideration the statements made by the various beneficiaries as well as statement made by the petitioner himself. No further inquiry has been mandated to be made by the competent authority in the matter. Hence, even this argument of counsel for the petitioner is also liable to be rejected.

Counsel for the petitioner has also submitted that the licence of the petitioner has been cancelled for *mala fide* reasons on the basis of a party faction in the village and that the *mala fide* is writ large on the face of it because now the licence has been conferred upon brother-in-law of one of the complainants. However, the mere fact that the licence has been allocated to any particular person after the licence of the petitioner was cancelled, is totally irrelevant. The subsequent allocation of licence is a different aspect altogether, which the petitioner might have been at liberty to question if any law is violated by the authority in allocation of the PDS Licence. However, the same cannot be made the basis for condoning the irregularities committed by the petitioner, which the authority has determined in the case of functioning of the petitioner. Nothing has been brought on record to show any party faction in the village as such. On the contrary, the Sarpanch of the village and several Panches and even Numberdar of the village have deposed in unison against the petitioner qua irregularities and functioning of the petitioner. Hence, even this argument

of the petitioner is without any force.

In view of the above, finding no merits in the instant writ petition, the same is dismissed.

(Rajbir Sehrawat)
Judge

01.11.2021
Mohan Bimbra

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