

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

CWP No. 9085 of 2018

Date of decision: 6th February, 2023

Suman Devi

Petitioner

Versus

Deputy Commissioner, Bhiwani and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sumit Sangwan, Advocate for the petitioner.
Mr. Samarth Sagar, Addl. AG, Haryana.

AVNEESH JHINGAN, J (Oral):

1. The writ petition in the nature of *Certiorari* is filed seeking quashing of orders dated 24.10.2017 and 1.3.2018 cancelling the licence of Public Distribution System (for short, 'PDS') depot of the petitioner and rejecting the appeal.

2. In February, 2011, the petitioner was granted a licence to run foodgrains shop in village Shimlibas, Tehsil and District Bhiwani. In August, 2017 complaints were received that the petitioner was distributing less foodgrains than the entitlement of the card holders as also with regard to his behaviour with the consumers. On the basis of an enquiry report dated 23.10.2017, licence was cancelled, appeal filed against the cancellation was dismissed on 1.3.2018.

3. Learned counsel for the petitioner submits that complaints were made at the instance of Sarpanch-Kamla Devi due to political rivalry. He further submits that in-laws of the petitioner had filed a complaint under Section 133 Cr.P.C. against the Sarpanch. The contention is that the petitioner was not confronted with adverse material and cancellation was made only on the basis of statement of Sarpanch-Kamla Devi. It is argued

that monthly distribution of food grains was signed by five-member Committee and these certificates were not considered. It is further argued that this court vide order dated 11.4.2019 directed the respondents to place on record the complaints and the statements recorded by the Inspector, Food and Supplies forming the basis for issuance of letter dated 13.6.2017. The State had filed affidavit dated 11.1.2023 in which only one statement of Kamla Devi Sarpanch of the village is mentioned.

4. Learned counsel for the State opposes the prayer and submits that number of complaints were received, the matter was enquired into and after spot inspection the licence was cancelled. He further submits that in the affidavit, it is specifically mentioned that statement of Kamla Devi was recorded by Food Inspector. He further submits that as per Annexure R1 annexed with the reply, the statements of complainants were recorded in the presence of Kamla Devi Sarpanch.

5. The stand taken in the reply and in the affidavit are not in consonance with each other. It is not disputed that the material forming the basis of cancelling the licence of the petitioner was not confronted to the petitioner. It would be worthwhile to mention that in spite of giving an opportunity to the respondents, the affidavit filed is only to the effect that statement of Sarpanch-Kamla Devi was recorded, no details of complainants and statements recorded were produced.

6. The Supreme Court in ***Kanwar Natwar Singh v. Director of Enforcement and another, 2010(13) SCC 255*** re-affirming the principles laid down in its earlier decision in ***Dhakeshwari Cotton Mills Ltd. Commissioner of Income Tax, West Bengal, (1995) 1 SCR 941*** held:

23. The right to fair hearing is a guaranteed right. Every person before an Authority exercising the adjudicatory powers has a right to know the evidence to be used against him. This principle is firmly established and recognized by this Court in Dhakeswari Cotton Mills Ltd. Vs. Commissioner of Income Tax, West Bengal 1995(1) SCR 941. However, disclosure not necessarily involves supply of the material. A person may be

*allowed to inspect the file and take notes. Whatever mode is used, the fundamental principle remains that nothing should be used against the person which has not brought to his notice. If relevant material is not disclosed to a party, there is prima facie unfairness irrespective of whether the material in question arose before, during or after the hearing. The law is fairly well settled if prejudicial allegations are to be made against a person, he must be given particulars of that before hearing so that he can prepare his defence. However, there are various exceptions to this general rule where disclosure of evidential material might inflict serious harm on the person directly concerned or other persons or where disclosure would be breach of confidence or might be injurious to the public interest because it would involve the revelation of official secrets, inhibit frankness of comment and the detection of crime, might make it impossible to obtain certain clauses of essential information at all in the future [See **R Vs. Secretary of State for Home Department, ex. p. H 1995 QB 43.**”*

7. In view of the discussion above and the law cited, the impugned orders are set aside. District Food and Supply Controller, Bhiwani shall decide the matter afresh in accordance with law after providing opportunity of hearing to the petitioner.

8. The petitioner is directed to appear before District Food & Supply Controller, Bhiwani on 14.3.2023 at 11.00 AM.

9. The petition stands disposed of.

[AVNEESH JHINGAN]
JUDGE

6th February, 2023

mk

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No