

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-3865-2024 (O&M)
Date of decision: 20.02.2024

Raj Kumar

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Sandeep Saini, Advocate for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 03.01.2024 passed by respondent No. 2-District Collector, Kurukshetra, whereby the appeal filed by the petitioner against the order dated 10.10.2023 passed by respondent No.3-District Food, Civil Supplies and Consumer Affairs Controller, Kurukshetra, has been dismissed. A further prayer has been made for seeking directions to the respondents to restore the ration depot allotted to the petitioner.
2. Learned counsel for the petitioner vehemently contends that the petitioner had been allotted a ration depot of ward No.12, Shahabad in the year 2017 and since then he has been running the same with sincerity and honesty and without any complaint. On account of the petitioner not supporting the elected Municipal Councillor, in the elections held in June-2022, the said Councillor is holding a grudge against the petitioner and in

that process, he got a false complaint submitted against the petitioner by as many as 14 persons who were co-signatory in the said complaint. He contended that more than 10 such persons were not even the registered consumers/residents to be supplied ration from the above said depot of the petitioner and only 4-5 persons were enlisted as beneficiaries under the PDS Scheme from the ration depot allotted to the petitioner. He further contends that more than 300 people had given statements and had supported the petitioner to the effect that he is distributing the ration in proper time and that he is an upright person and also that they have no problem if the ration depot of the petitioner is continued. It is contended that the above said complaint against the petitioner had been submitted under the pressure, having been misled and influenced by the local elected member of the Municipal Council. It is also argued that the member of Municipal Council of adjacent ward No.15, MLA and Chairman have already recommended for restoration of the depot to the petitioner.

3. He vehemently argued that the respondents have cancelled the depot allotted to the without any valid cause and only on account of the grudge held by the Municipal Councillor.

4. I have heard the learned counsel for the petitioner and have gone through the documents appended with the present petition.

5. It is evident from a perusal of the order passed by respondent No.3-District Food, Civil Supplies and Consumer Affairs Controller, Kurukshetra, that a complaint had been submitted against the petitioner on 03.07.2023 and 05.07.2023 wherein it was alleged that the petitioner does not open the depot in time and he regularly misbehaves with the residents.

Consequent upon the receipt of the said complaint, the same was forwarded to the Assistant Food and Supply Officer/Inspector, Shahabad for investigation. Additionally, a complaint was also submitted by Shri Guru Ravidas Mandir and Dharamshala Sabha, Shahabad, on 06.07.2023 against the petitioner. The Inspector Food and Supply, Shahabad, conducted an investigation into the allegations leveled against the petitioner and submitted the report informing that during investigation, the statements of 19 beneficiaries/families were recorded and all the said beneficiaries have stated that they were not getting ration every month, in right quantity and they requested to cancel the licence of the depot of the petitioner. It was also averred in the complaint that the behavior of the petitioner was not good and he does not open the depot on time. Further, he causes harassment to the beneficiaries by making them visit the depot repeatedly and thus, prayed that action be taken against the ration depot holder. The statements of the local Municipal Councillor and other persons were also recorded. Further, the petitioner had himself also given a request letter in the office of the District Food & Supply Controller, on 05.07.2023 that his health is not good due to illness and he has also attached the medical status and he is not able to distribute the ration. A request was also made by him for being granted leave of 3 months whereupon the ration supply was attached to another depot. The petitioner submitted his presence on 15.09.2023 after completion of leave. A show cause notice was issued to the petitioner and he was asked to appear in the office of the District Food, Civil Supply and Consumer Affair Officer, Kurukshetra, for being granted an opportunity of hearing.

6. The written submissions were furnished but the same were not

found satisfactory. Additionally, the complaint made by Shri Guru Ravidas Mandir and Dharamshala Sabha, Shahabad was also enquired into and a report dated 09.10.2023 was submitted in the office. Even in the said report statement of various persons including the Secretary and the office bearers of said Sabha were recorded and all of them had deposed against the petitioner including his unruly and unacceptable behavior.

7. Taking into consideration both the report which was enquired into independently and being corroborative about the misconduct of the petitioner, the District Food, Civil Supply and Consumer Affair Controller, Kurukshetra, cancelled the public distribution system licence granted to the petitioner by confiscating/seizing of the deposit security of the ration depot with immediate effect.

8. Aggrieved of the said order, the petitioner preferred an appeal before the District Collector, Kurukshetra, bearing File No.53/DC/3/2023 dated 25.10.2023 and the same was dismissed vide order dated 03.01.2024. Relevant and operative part thereof is extracted as under:-

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I have heard both the sides and also perused the record file. After perusal of the case file, it is found that the ration depot of the depot holder has been properly cancelled based on the inquiry report made by the Assistant Food Civil Supplies and Consumer Affairs officer, Shahabad. During the debate it is proved that Mr. Rajkumar the depot holder repeatedly violates the rules. Repeated complaints have been received against it. After the

investigation, the supply of the appellant's ration depot has been suspended four times before. From which it appears that the depot holder has started violating the rules. Which shows the irregularity of the rules of distribution of goods by the depot holder. On the basis of irregularities found in the Ration Depot of Sh.Rajkumar Depot Holder Ward No. 12 Shahabad by the District Food and Supply Controller, Kurukshetra. Under the PDC Control Order 2022, his order letter number N.V. 2023/5984 dated 10.10.2023 the ration depot of Rajkumar has been properly cancelled. In which no intervention is required. Therefore, finding no force in the appellant's appeal, the appeal filed by the appellant is dismissed. The District Food and Supply Controller, Kurukshetra is directed to issue a depot holder's license to any other person after consultation with the Sub Divisional officer (N), Shahabad as per the rules to a person of good character.”

9. The contention of the petitioner that the complaints in question had been instigated by the local Municipal Councillor are double edged. While the petitioner contends that the said complaint is instigated on account of the fact that the petitioner did not extend any support to the said candidate, however, it is equally possible that merely because the Municipal Councillor did not support the petitioner, hence, this counter allegation has been leveled as a defence. Besides, the said Municipal Councillor has not been impleaded as a party in the present case and as such any allegation of

malice or biased cannot be look into in the absence of proper parties.

10. Insofar as the second contention of the petitioner that the various persons have got their statement recorded in support of the petitioner including the Municipal Councillor of the adjacent Ward No.15 and the local MLA is concerned, the said contention lacks merit. An adjudication of a claim is not to be done on the basis of his support which a person can muster for himself and is rather to be done on the basis of enquiry conducted against the conduct of a person and the deficiency reported in the said enquiry.

11. The District Collector has specifically noticed that the allegations of misappropriation and improper disbursement of public supply stood established and even on earlier occasions, the ration supply to the depot of the petitioner was suspended 04 times. Further, it is also noticed in the above said order that the directions were repeatedly issued to the petitioner to submit the POS machine in the office of the Inspector of Food and Supply but he did not pay any attention to the same. Additionally 31.71 quintals of wheat under Pradhan Mantri Ann Yojna, 47 kg sugar and 31.26 quintals of wheat were reflected as outstanding against the petitioner. The relevant extract of the same as noticed in the order is as under:-

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In his argument, the respondent has submitted that on the basis of the investigation report conducted by the Assistant Food Civil Supply and Consumer Affairs officer, Shahabad, the District Food civil Supply and Consumer Affairs Controller, Kurukshetra vide its order dated 10.10.2023, the appellant's ration depot was cancelled

correctly according to the rules. Several complaints against Shri Rajkumar, the depot holder were also received in the office of the District Food Civil Supplies and Consumer Affairs Controller, Kurukshetra. The supply of the depot holder was suspended on 28.02.2022 after the investigation by Assistant Civil Supply and Consumer Affairs officer, Shahabad. Subsequently supply was restored on submission of an affidavit by the depot Holder. After this, Rajkumar complaint depot's was received again. Which basis of on the the Joint Inquiry Committee Report of the constituted by the Assistant Food Civil Supplies and Consumer Affairs officer, Shahabad, on 08.08.2022, the supply to Rajkumar Depot Holder was suspended. And the Depot holder was instructed to submit the POS machine in the office of Inspector Food and Supply, Shahabad. But the depot holder did not pay any attention to this direction. In the machine 31.71 quintals of the wheat of Pradhan Mantri Ann Yojna, sugar 47 kg and regular wheat 31.26 quintals were outstanding. Inspector Food Supply Shahabad wrote to the District Food Civil Supply and Consumer Affairs Controller, Kurukshetra to register a complaint against the depot holder. After this, on the basis of the investigation report of another complaint, the supply of the Depot holder was suspended on dated 25.04.2023. Rajkumar, the depot holder repeatedly violates the rules. Repeated complaints have been received against

him. After investigation, action was taken against the appellant as per rules. From which it appears that the depot holder is violating the rules. The respondent has requested that the appeal filed by the appellant be dismissed.

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12. Further, the allegations against the petitioner have been enquired on two different occasions and both reports by different enquiry officers, after conducting enquiries/investigations, had been submitted wherein the petitioner was found to be a defaulter and guilty of misconduct in not only harassing the consumers/beneficiaries but also in retaining the public distribution supplies. The enquiries reports submitted by the respective Inspector are not a subject matter of challenge. The order under challenge had been passed after granting due opportunity of hearing and upon consideration of the averments/submissions advanced by him. A mere allegation that the complaint in question is motivated cannot be held sufficient to disbelieve both the enquiry reports submitted successively against the petitioner. High Court, in exercise of its powers of judicial review, does not sit as a Court of appeal against the decision taken by the competent executive authorities and substitute its own opinion for that of the competent authority.

13. The flagship programmes of the Government of India for ensuring door step delivery of food-grains has significant importance to the recipients of such benefits. The petitioner cannot be permitted to abuse his status of ration depot holder and resort to harassing the consumers on any count. The enquiries having found the petitioner to be in persistent default,

this Court would not substitute its opinion for that of the competent authority. Once the principles of natural justice have been duly followed and opportunity of hearing had been extended and the decision in question cannot be held to be excessively harsh or in violation of the general principles, there would be no basis for substituting the decision of the competent authority by the High Court.

14. There is no material for this Court to disbelieve the reports or to ignore the same. A mere self serving statement denying the reports cannot be held sufficient more so when the findings recorded in the order including suspension of supplies for 4 times within a span of 5 years of issuance of depot, remain undisputed.

15. Finding no infirmity or illegality, the present writ petition is **dismissed in limine** for the aforesaid reasons.

(VINOD S. BHARDWAJ)
JUDGE

20.02.2024

Mangal Singh

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