



CWP-11326-2022 (O&M)
CWP-11862-2022 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101 CWP-11326-2022 (O&M)
Date of Decision: 29.10.2024

SANJEEV KUMAR MITTAL
... Petitioner

V/S

STATE OF HARYANA AND OTHERS
.... Respondents

101-2 CWP-11862-2022 (O&M)

RAVINDER KUMAR MITTAL
... Petitioner

V/S

STATE OF HARYANA AND OTHERS
.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Sharad Aggarwal, DAG, Haryana.

Mr. Gaurav Datta, Advocate and
Mr. Vaibhav Bhargav, Advocate
for the complainant-proposed respondent No.5.

SUVIR SEHGAL, J. (ORAL)

1. This order shall dispose of both the above noted writ petitions.
2. For the sake of convenience, factual position is being taken
from CWP No.11326 of 2022.



CWP-11326-2022 (O&M)
CWP-11862-2022 (O&M)

2

3. By way of writ petition filed under Article 226 of the Constitution of India, petitioner has approached this Court, *inter alia* for issuance of a writ in the nature of certiorari for quashing order dated 09.03.2022, Annexure P-6, passed by the District Food and Supplies Controller (DFSC), Kaithal, respondent No.3, and order dated 12.04.2022, Annexure P-7, passed by the Collector, District Kaithal, respondent No.2, whereby petitioner's PDS licence for village Azimgarh, District Kaithal has been cancelled. A direction has been sought to the respondents to restore the licence.

4. Facts leading to the filing of the petition are that the petitioner was allotted a ration depot by respondent No.3 and was granted licence No. KTL-573, which he has been running for more than two decades. The licence was being renewed over the period of time under the Haryana Public Distribution System (Licence and Control) Order, 2009 (hereinafter referred to as 'the Control Order'). A complaint was moved by proposed respondent No.5, alleging that the petitioner had withdrawn ration against "Silent Card holders" during the lockdown. On the basis of a report from the Inspector, Food and Supplies, Cheeka, petitioner was served with a show cause notice dated 10.06.2021, Annexure P-2, alleging that the petitioner had distributed ration to 23 card holders during Covid-2019 by affixing his own thumb impression. Petitioner submitted a reply, Annexure P-3, and was called for personal hearing vide notice dated 25.02.2024, Annexure P-4. But as the petitioner was unwell, he requested the DFSC to grant him another opportunity. By



CWP-11326-2022 (O&M)
CWP-11862-2022 (O&M)

3

impugned order, Annexure P-6, petitioner's licence was cancelled on account of irregularities committed by him. Petitioner remained unsuccessful in appeal, which was rejected by respondent No.2 vide impugned order Annexure P-7.

5. Upon notice, writ petition has been contested by official respondents No.1 to 4 by filing a reply, wherein it has been submitted that a complaint received from Balwinder Singh, was inquired into. During inquiry, it was found that during lockdown from the month of March, 2020 to May, 2020, petitioner issued ration to "silent card holders" who prior to March, 2020 and after May, 2020 never took any ration from the depot. It was further submitted that vide letter dated 18.03.2020 Annexure R-3/B, instructions were received to the effect that all Fair Price Shop (FPS) dealers have been designated as nominees to authenticate themselves, after biometric authentication through POS delivery at FPS on behalf of the ration card holders and distribute ration to the card holders till 31.03.2020, due to the spread of the pandemic and this period was extended to 31.05.2020. A stand has been taken that taking benefit of these instructions, petitioner released ration to 23 "silent card holders" and embezzled essential commodities allocated to the depot. It has been submitted that the copy of the report was supplied to the petitioner along with the show cause notice, who submitted a reply and was afforded an opportunity of hearing, which he chose not to avail.

6. Mr. Rajesh Bansal, counsel for the petitioner, has argued that a similar complaint, Annexure P-1, was moved by the petitioner before the



CWP-11326-2022 (O&M)
CWP-11862-2022 (O&M)

4

CM window and during inquiry, he recorded his statement that the complaint had been given due to some mis-understanding and the Assistant Food and Supplies Officer, Cheeka, made recommendation, Annexure P-10, cancelling the complaint. It is his argument that despite this development, which was brought to the notice of the respondent authorities, the petitioner's licence of FPS has been cancelled. He urges that the petitioner was not given sufficient opportunity to personally present his case and the primary order has been passed in violation of the principles of *audi alteram partem*. It is also his argument that the impugned action was taken solely on the basis of the documents and statements of the individual card holders have never been recorded. He has also referred to the statement of the Sarpanch, Gram Panchayat, who has stated that 17 alleged "silent card holders" had withdrawn the ration and the remaining card holders could not be located.

7. Opposing the petition, State counsel submits that the embezzlement of the essential food items has been established on the record and the petitioner deliberately did not participate in the proceedings before DFSC. He submits that as the reply submitted by the petitioner was found to be unsatisfactory, licence was cancelled under Rule 13 of the Control Order and the security amount was forfeited. He was supported by counsel for the complainant-proposed respondent No.5.

8. Counsel for the parties have been heard and record has been examined with their able assistance.



CWP-11326-2022 (O&M)
CWP-11862-2022 (O&M)

5

9. The undisputed position is that the petitioner was issued a notice Annexure P-4, calling him for personal hearing on 04.03.2020, but the petitioner could not appear due to his ill health. This notice was received by the petitioner on 03.03.2020. Despite petitioner's request, he was not given another opportunity to be present in person. This Court takes judicial notice of the fact that for two years, from March, 2020 onwards the country was reeling under the impact of the pandemic and people in general were avoiding going to public places. In such circumstances, the possibility of the petitioner being unwell and not in a position to attend the proceedings in person, deserves to be accepted. This Court is of the view that petitioner should have been afforded with another opportunity to present his case before the authorities.

10. A perusal of the impugned order, Annexure P-6, shows that while cancelling the licence, DFSC has not assigned any reason in support of its order. It has failed to take into account that another complaint Annexure P-1, had been submitted against the petitioner on similar allegation, which culminated in a report Annexure P-10, whereby the case was closed. Still further, the respondent authorities have proceeded against the petitioner and taken the impugned action on the basis of the documentary record. On a specific query, State counsel could not point out as to whether statement of any individual "silent card holder" had been recorded alleging that they had not drawn the ration from the depot of the petitioner during the months of March to May, 2020. In the absence of this incriminating material, this Court is of the



CWP-11326-2022 (O&M)
CWP-11862-2022 (O&M)

view that the impugned orders cannot be sustained.

11. At this stage, Mr. Sharad Aggarwal, DAG, Haryana, submits that an opportunity be now given to the respondents to record the statements of card holders and to produce it before the authorities, so that the proceedings initiated against the petitioner can be taken to their logical end. The request made by State counsel seems to be reasonable.

12. For the foregoing reasons, impugned orders, Annexures P-6 and P-7 cannot be sustained and are accordingly set aside. Matter is remitted to the DFSC, Kaithal, to enable him to grant another opportunity to the petitioner to appear in person and explain his stand. Liberty is also given to the petitioner as well as the official respondents to produce any other relevant material, which would enable the DFSC to arrive at a just conclusion.

13. Both the writ petitions are disposed of.

14. Parties are directed to appear before the DFSC, Kaithal, on 16.12.2024, who shall proceed further in accordance with law.

15. As both the main writ petitions have been decided, pending miscellaneous applications are disposed of.

29.10.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No