

CWP-12330-2021

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

CWP-12330-2021

Date of pronouncement :- 16.04.2024

Reserved on 20.03.2024

Jasmer Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sansar Kundu, Advocate, for the petitioner.

Mr. Aman Bahri, Additional Advocate General, Haryana
for the respondents.

...

SUVIR SEHGAL, J (ORAL)

1. By way of present writ petition filed under Article 226/227 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 09.04.2021, Annexure P-7, passed by respondent No.2, whereby, his appeal has been dismissed and order dated 11.06.2020, Annexure P-3, passed by respondent No.3, whereby licence issued to the petitioner under Haryana Public Distribution System (Licensing and Control) Order, 2009, has been cancelled.

2. Facts, in a nutshell, are that petitioner was issued a licence for running a ration depot in village Kharakbura, Tehsil Uchana, District Jind. Complaints were received against him and after recording the statements

of 39 cardholders, a show cause notice dated 21.05.2020, Annexure P-1, was issued to him, to which, he submitted a reply dated 29.05.2020, Annexure P-2. After affording personal hearing and considering his reply, respondent No.3, by impugned order dated 11.06.2020, Annexure P-3, cancelled his licence, forfeited the entire security amount and ordered the recovery of the price of deficit wheat meant for distribution under Pradhan Mantri Garib Kalyan Yojna (PMGKY) from the petitioner and on his failure to deposit the amount, it was directed that an FIR be registered against him. Petitioner unsuccessfully challenged the order in appeal, which was dismissed, vide order dated 30.09.2020, Annexure P-5. He challenged the order by filing a writ petition before this Court, which was disposed of on 09.12.2020, Annexure P-6, and the matter was remitted with a direction to hear the parties as well as to pass a fresh order assigning reasons in its support. Upon remand, order dated 09.04.2021, Annexure P-7, has been passed by respondent No.2, dismissing the appeal. Both the orders have been assailed by the petitioner in the instant petition.

3. Upon notice, respondents have filed a reply, supporting the orders passed by the authorities stating that action has been taken after complying with the principles of natural justice.

4. Counsel for the petitioner has contended that 36 out of 39 cardholders have given affidavits in favour of the petitioner, which have not been considered by the authorities while passing the impugned orders. He

has submitted that the petitioner is prepared to deposit the price of 80 kg wheat, which has been found to be deficient. On the other hand, State counsel has opposed the petition and has submitted that the petitioner has deliberately placed an incorrectly translated copy of the impugned order, Annexure P-7, and action has been taken as per rules.

5. I have considered the arguments addressed by the counsel for the parties and have examined the documents appended with the paper book.

6. At the outset, the relevant extract of the impugned appellate order, Annexure P-7, deserves to be noticed and is reproduced hereunder:-

“5. Both the parties were heard carefully and the advocate of the appellant-party was given full opportunity to be heard, wherein, the appellant has reiterated all the facts mentioned in the above order and after hearing them, I have come to the conclusion that after finding no concrete evidence in the appeal, the appeal of the appellant is dismissed and the order of cancellation of depot of District Food and Supplies Controller, Jind, dated 11.06.2020, is upheld because;

(1) That 80 kg of wheat was found with Jasmer Singh, depot holder, in physical form. The District Food and Supplies Controller, Jind, in his report has considered the wheat, has been destroyed (sic) the same was not mentioned by the appellant.

(2) Although the complainants have reversed

their complaint and had given statement in favour of the depot holder, but this does not justify the missing of 80 kg in physical investigation.

6. *Therefore, the physical examination report, District Food and Supplies Controller, Jind, attached document (1) report dated 21.05.2020 (countersigned by applicant)(2) on the basis of online printout, it is clear that the appellant has no evidence in its denial and no concrete evidence was presented by the appellant to make it clear that his licence had been suspended beyond the Rules. Therefore, the order of District Controller of Food and Supplies, Jind, is upheld and the appeal of the appellant is dismissed. After the necessary action, file be consigned to Record Room.” (Emphasis added)*

7. As per the stand taken by the respondents, the highlighted portion of the impugned appellate order, has been wrongly translated. According to them, the correct translation is as under:-

“(1) There was a shortage of 80 kg wheat found physically with Jasmer Singh, depot holder. To that that the District Food and Supplies Controller, Jind, in his report, stated about the embezzlement of wheat. The petitioner has not rebutted the same.” (Emphasis added)

8. This Court has examined the original vernacular copy of the impugned appellate order, Annexure P-7, and finds that the translation

given by the respondents is its correct version. Despite the fact that the respondents in their reply had stated that the order appended with the petition has not been correctly translated and was misleading, petitioner never took any step to rectify it. Even during the course of hearing before this Court, petitioner proceeded to argue the matter on the basis of the incorrectly translated copy.

9. A show cause notice, Annexure P-1, was issued to the petitioner on the basis of the statements of 39 cardholders of the village, who had stated that the petitioner had not issued them ration as per their entitlement. Record of the petitioner was also checked and it was found that there were irregularities in the actual distribution of the ration when compared with the online record. It was further found that during the outbreak of Covid-19, free wheat meant to be distributed under the PMGKY Scheme, was pilfered and sold at a higher price. After petitioner's licence was suspended and the wheat stock was ordered to be shifted to another depot, it was found upon physical verification that there was deficiency of 80 kg of wheat.

10. Although petitioner has managed to get statements from 36 card holders in his favour, but a perusal of the statements, appended with his reply, Annexure P-2, shows that most of the statements have been thumb marked. It is, therefore, evident that the card holders are illiterate and were perhaps coerced into thumb marking it. This is also the stand taken by the respondents in their reply. It is also clear that petitioner has not

been able to influence three card holders and nor has he been able to show any material to controvert the statements given by them, wherein, they have stated that they have not been issued essential commodities as per their entitlement.

11. During the course of the arguments before this Court, petitioner has offered to deposit the price of 80 kg wheat found to be deficient. However, this offer made by him at this belated stage, cannot be accepted. Rather, it shows that he has accepted the deficiency and has failed to give any explanation for the same. This delayed offer is only an attempt to protect his own skin, as it has already been ordered by impugned order, Annexure P-3, that in case the amount is not recovered from him, criminal case be registered.

12. Petitioner comes across as an unscrupulous person. When the entire country was reeling under the onslaught of the pandemic, petitioner misused the situation to his advantage, by exploiting helpless people belonging to the economically weaker section of the society. This Court does not have any sympathy for such a person.

13. Finding no merit in the writ petition, it is hereby dismissed with no order as to cost.

(SUVIR SEHGAL)
JUDGE

16.04.2024
Pardeep

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