

(2018) 09 RAJ CK 0057
In the Rajasthan High Court
Case No : Civil Writ No. 8126 of 2015

Laxman Lal Meena @APPELLANT@Hash State of Rajasthan & Ors

Date of Decision : 14-09-2018

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2018) 09 RAJ CK 0057

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : Sandeep Shah, Akshiti Singhvi, L.R.Bishnoi

Final Decision : Dismissed

Judgement

Through this writ petition under Articles 226 and 227 of the Constitution of India, the petitioner Laxman Lal Meena has approached this Court with the

following prayer:-

â??The order impugned dated 03.03.2010 (Annex.3), order dated 24.05.2010 (Annex.5) and order dated 26.07.2013 (Annex.6) may kindly be

quashed and set aside, and the licence of the petitioner for running the fair price shop may kindly be restored and the petitioner may be permitted to

conduct the business of selling of essential commodities.â??

Facts in brief are that the petitioner was awarded a licence for fair price shop at the village Javar, Tehsil Girwa, District Udaipur in the year 2000. An

inspection was conducted by the District Supply Officer, Udaipur at the petitionerâ??s licenced premises and certain irregularities were noticed. The

major deficiencies was that almost 2637 liters of kerosene was found short at the petitionerâ??s licensed premises. Accordingly, the licence of the

petitioner was suspended and a show cause notice was issued to him calling for an explanation as to why the fair price shop licence held by him

should not be cancelled. As many as 8 deficiencies were pointed out in the show cause notice. The petitioner claims to have appeared before the DSO and prayed for time to file reply. However, on two dates, reply was not filed whereafter, the DSO closed the reply and proceeded to pass an order dated 3.3.2010, accepting the inquiry report and cancelling the fair price shop licence issued in favour of the petitioner. The petitioner assailed the order dated 3.3.2010 by filing an appeal before the District Collector, Udaipur principally on the ground of non-compliance of the principles of natural justice and allegedly that no proper inquiry was held before cancelling the licence. The petitioner implored the appellate authority for reversal of the order passed by the DSO and restoration of his licence. However, the District Collector, Udaipur too rejected the petitioner's appeal by order dated 24.5.2010 while affirming the decision of the DSO whereby the licence of the petitioner was cancelled. Being aggrieved of the order of the District Collector, Udaipur, the petitioner filed a revision under Order 22A of the Rajasthan Food and Other Essential Commodities (Regulation of Distribution) Order 1976, which too was rejected by order dated 26.7.2013. These three orders are assailed by the petitioner in this writ petition preferred under Articles 226 and 227 of the Constitution of India.

Shri Sandeep Shah assisted by Ms.Akshiti Singhvi Advocates representing the petitioner vehemently urged that the impugned orders are highly perverse and arbitrary and thus deserve to be set aside. The petitioner was not provided a fair opportunity to file reply to the show cause notice. The explanation given by the petitioner at the time of inspection was not considered and was brushed aside in an absolutely cursory manner. Regarding the delay in filing the writ petition, an explanation is offered that he had gone out of the State to earn his livelihood and when he returned, he came to know that his revision had been dismissed by the State Government and then the copies were procured and the writ petition was presented.

Shri L.R.Bishnoi, Dy.G.C. representing the respondents has filed a detailed reply to the writ petition supporting the impugned orders. He urges that the deficiencies noticed at the petitioner's business premises were of grave nature. The petitioner was given ample opportunity to submit explanation about the shortcomings but despite that, he failed to either file a reply or to submit any documents/affidavits so as to explain or overcome the

deficiencies pointed out during the inspection and elaborated in the show cause notice. Thereafter, the DSO proceeded to pass the order cancelling the

fair price shop licence granted in favour of the petitioner. He further submitted that the explanation offered by the petitioner for the delay in filing the

writ petition is absolutely flimsy and farfetched and is not worthy of acceptance. On these grounds, he craves dismissal of the writ petition.

I have given my thoughtful consideration to the arguments advanced at the Bar and have gone through the impugned orders and other material placed on record.

Firstly, on a perusal of the show cause notice issued to the petitioner, this Court is duly satisfied that the discrepancies noticed during inspection of the

fair price shop of the petitioner were of very serious nature. The show cause notice reflects that a huge quantity of kerosene measuring nearly 2600

liters was found short in the stock. A discrepancy regarding maintenance of record and shortage to the tune of 5.7 quintals of APL wheat was also

noticed. The petitioner was admittedly provided two opportunities to file reply to the show cause notice but he failed to do so. The grounds which have

been advanced by Shri Shah to claim that the petitioner was genuinely and reasonably prevented from filing reply to the show cause notice are flimsy

and farfetched. Even in the appeal and the revision, the plea which was put forth by the petitioner's counsel to explain the shortfall of the kerosene

and wheat was that the petitioner had maintained separate registers for the months of October and November. Evidently, there could not have been

any justification for maintaining two separate registers unless the first one had been filled up. This was not the case set up by the petitioner. The

revisional authority examined the records and found that many pages of the stock register were blank. Thus, manifestly, the theory of two registers

was nothing but a ploy to somehow or the other offer a lame explanation to the shortcoming in the stock of kerosene and wheat. The order whereby

the revision of the petitioner was dismissed was passed way-back in the year 2013. The petitioner has failed to provide any justifiable cause to explain

undue and significant delay of two years in filing the writ petition. Three competent authorities have recorded concurrent finding of facts.

In this background, this Court is not convinced in the least to exercise the supervisory writ jurisdiction conferred upon it by Article 227 of the

Constitution of India so as to interfere in the impugned orders.

Hence, the writ petition as well as stay application are dismissed as being devoid of merit.