

OFFICE OF THE COMMISSIONER /APPELLATE AUTHORITY
DEPARTMENT OF FOOD SUPPLIES AND CONSUMERS AFFAIRS
GOVT. OF NCT OF DELHI
ROOM No. 101, 1st FLOOR, K-BLOCK, VIKAS BHAWAN, I.P. ESTATE
Ph.No. 011-23379252 NEW DELHI-110002

No.PS/COMM./AA/FPS Appeal/F&S/2020/ 304-308

Dated: 09-09-2021

Review Appeal No.24/2020

In the matter of:

Appeal No.101//2016

M/s. Ganesh Store
FPS No. 9171, Circle-02,
Burari, Delhi

Sh. Rajinder Singh

Appellant

Versus

The Assistant Commissioner (North)
Deptt. Of Food Supplies & Consumer Affairs

Respondent

Date of Hearing : 26.08.2021

ORDER

Whereas, the instant Review Appeal has been filed by the appellant under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 and PDS Order, 2001 against Cancellation Order dated 18.02.2016 and 30.06.2016 passed by the Assistant Commissioner (North) and the then Appellate Authority/Additional Commissioner (Admn.) respectively.

Shri Rajinder Singh, Appellant was present.

Shri Sunil Verma, FSO (C-02) (Burari) and Shri Rajesh Kumar, FSI (C-02) (Burari) on behalf of Assistant Commissioner (North) were present for hearing.

The case was called and both the parties were heard at length.

The brief facts of the case are as under:-

1. The inspection team visited the FPS No. 9171 of the Appellant on 17.12.2015 at 05.35 P.M. and found the FPS closed and therefore sealed the same.
2. On request of Appellant the shop was de-sealed on 22.12.2015 and seized the documents such as Stock Register, Sale Register, Cash Memo, Talpatti etc.
3. The team found the variation to the tune of 0.05 Qtls. Wheat and 0.20 Qtls. of Rice (Short) in the stock of FPS.
4. During door to door survey denial of 32 kg. of Wheat and 02 kg. of Rice from some card holders were reported.

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5. The Sign Boards of the FPS including name and telephone number of prop. was not available. The Stock Board, RTI Board, Notice Board, Rate of SFAs and guidelines/instructions of the department for information of the card holders were also not found displayed at the FPS.
6. After giving opportunity of hearing the FPS was suspended on 07.01.2016 followed by Cancellation Order dated 18.02.2016.
7. Aggrieved with the decision of Licensing Authority the Appellant filed Appeal before the then Appellate Authority which was rejected vide order dated 30.06.2016.
The Appellant filed the review appeal on following grounds and argued as under :-
 - (a) That Smt. Laxmi had already taken her ration but he could not address her issue in his reply properly as he was new in the business. He got FPS licence on 05.10.2015 only. However, he filed affidavit of card holder Smt. Sumitra Devi who had categorically admitted in her affidavit that she received SFAs for the month of November and December from FPS No.9171.
 - (b) That the variation was less than 50 Kg. and weighment done by the inspecting team was not in a proper manner as the inspecting team calculated variation manually on the basis of counting of bags X 50kg and no weighment was done to reach out the actual figure. He added that at the time of unloading of SFAs at FPS, sufficient quantity of SFAs wasted due to putting hook on the bags by the labourers.
 - (c) That as regard non display of different sign boards, he submitted that whenever the shop was opened all the boards were duly displayed outside the shop but the he received a message of sudden death of father in law of his daughter and all the boards were put inside the shop for safety purpose and he rushed to Meerut to attend the last ceremonies. Meanwhile the shop was sealed by the Inspecting Team, therefore the allegations made by the Team were baseless.
 - (d) He further submitted that there was sudden demise of father-in-law of daughter of petitioner but the Fair Price shop was operated till 5.30 P.M. and the concerned authority not appreciated the fact regarding closing of FPS at 5.30P.M. and dismiss the appeal.
 - (e) That the concerned authority's non-reliance upon the affidavits furnished before him by two card holders in question showed arbitrariness and was against the principle of natural justice. Hence, the present revision is filed for review.

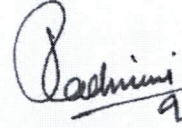
The FSO (C-02) (Burari) appeared on behalf of Assistant Commissioner (North)/ Respondent and reiterated the contents of Cancellation Order dated 18.02.2016. The FSO stated that another opportunity of being heard may be given to petitioner so that all the above mentioned contentions of the Appellant got addressed properly. He submitted that the matter regarding verification of statement and affidavit furnished by 02 card holders in question needs to be examined minutely. He further stated that the Licensee was new in the business and added that an opportunity of being heard to petitioner would serve the purpose to meet out the justice.

After hearing contentions of the parties, examining written / verbal submissions and perusing other relevant records placed before me, it has been noticed that the authorisation was issued on 05.10.2015 to FPS holder and the inspection was conducted on 17.12.2015, i.e. within 2 months of issuance of authorisation that shows the FPS holder was un-experienced and not well aware about complete procedures. The respondent also stated that the case needs to be examined again minutely. The written statements and affidavits submitted by 02 card holders need to be examined while deciding the matter afresh. An opportunity of being heard should be given to the appellant before passing order in the matter.

In view of above, considering the facts, circumstances and in the interest of principle of natural justice, the case is remanded back to Licensing Authority / Assistant Commissioner (North), who will afford one more opportunity of hearing to the petitioner and pass a speaking order afresh on merits after due consideration to complete facts, circumstances the case, addressing all the contentions of the petitioner and after taking into account all the papers adduced by the appellant.

The Review Appeal stands disposed of.

Ordered accordingly. Parties be informed.


9/9/2021

(PADMINI SINGLA)

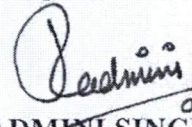
COMMISSIONER (F&S)/APPELLATE AUTHORITY

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Dated: 09-09-2021

Copy to :-

1. The Asstt. Commissioner (North), F&S Deptt., Delhi.
2. Sh. Rajender Singh, M/s. Ganesh Store, FPS No. 9171, Circle-02 (Buari), Delhi through Asstt. Comm. (North).
3. Shri Rajender Singh, Prop. M/s. Ganesh Store (FPS No. - 9171), Plot No. 144, Khasra No. 228/2, 25 Feet Road, Mukund Pur, Delhi - 110042.
4. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.


9/9/2021

(PADMINI SINGLA)

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