OFFICE OF THE SPECIAL COMMISSIONER / APPELLATE AUTHORITY
DEPARTMENT OF FOOD SUPPLIES AND CONSUMERS AFFAIRS
GOVT. OF NCT OF DELHI
ROOM No. 110, 1st FLOOR, K-BLOCK, VIKAS BHAWAN, I.P. ESTATE,
NEW DELHI-110002

No. SPL.COMM./AA/FPS Appeal/F&S/2022/978-982 Dated: 21/09/2022

Appeal No. 09/2022

In the matter of:

M/s. Dev Provision Store
Circle – 11 (Nangloi Jat)

Shri Purshottam Lal Sharma ..... Appellant

Versus

The Assistant Commissioner (West)
Deptt. Of Food Supplies & Consumer Affairs
Delhi ..... Respondent

M/s. Bhardwaj Store,
FPS No.9254, Circle-11 (Nangloi Jat)

Shri Rajesh Bhardwaj, Prop. ..... Respondent

Date of Hearing: 13.09.2022

ORDER

This Order shall dispose of the appeal/representation filed by Shri Purshottam Lal Sharma, Prop. M/s. Dev Provision Store, Circle - 11 (Nangloi Jat) against Rejection/Cancellation Order No. F.AC(WEST)/F&S/2016/67 dated 14.01.2016 and No. F.AC(West)/F&S/2017/1503-05 dated 19.08.2017 respectively passed by Assistant Commissioner (West). Further, in compliance of the order dated 12.04.2022 passed by the Ld. Financial Commissioner, notice of hearing for 24.08.2022 and 13.09.2022 were issued to the appellant and respondents.

Shri Purshottam Lal Sharma alongwith his Counsel Shri Nitin Sehgal were present.

Smt. Sushila, Assistant Commissioner (West)/ respondent was present.

Shri Rajesh Bhardwaj, Prop. /respondent was present.

The brief facts of the case are as under :-

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(i) A public notification dated 09.09.2015 was advertised by the Deptt. For allotment of 09 FPS in Circle – 11 (Nangloi Jat). The applicant alongwith others applied for grant of licence of FPS in notified area C-Block, Chandan Vihar, Jwalapuri. A total 06 application were received for grant of licence.

(ii) On 02.12.2015 a interview for allotment of FPS was conducted by the Selection Board and the petitioner attended the same.

(iii) The petitioner was holding earlier licence of KOD which was shut down by the Govt. as the kerosene policy of Delhi was changed.

(iv) Out of six applicants only two fulfilled the eligibility criterion and were allowed for personal interview. After the interview, on the basis of total score the Fair Price Shop was allotted to M/s. Bhardwaj Store who scored 22 marks and the petitioner who scored 20 marks and came second was intimated vide letter dated 14.01.2016

(v) The petitioner filed an appeal against the above rejection order vide Appeal No.94/2016 and the then Commissioner after hearing the contentions of the parties observed that the appellant was running the KOD for the last 11 years and as per policy of the Deptt. he was supposed to be given preference over other candidates. He further referred the matter to Selection Board for allotment of new FPS giving due weightage to the appellant considering his past experience of running KOD for 11 years and reverted back the case to Assistant Commissioner (West).

(vi) The Assistant Commissioner (West) examined the matter and referred the matter to Policy Branch for opinion whereby the Policy Branch opined that "Considering the past experience of applicant the Selection Committee has given him 05 marks in scoring sheet but on the basis of performance during interview the Selection Committee recommended the name of Shri Rajesh Bhardwaj prop. of M/s. Bhardwaj Store for allotment of FPS and there is no provision to issue two licenses against one notified vacancy of FPS in the Departmental guidelines dated 27.07.2015".

The Score Sheet is as under :-

S.No.	Name of the Candidate S/Sh.	Whether fulfills the eligibility criteria	Educational qualification	Knowledge of Rules & Govt. Policy	Whether belongs to preferred category	Total Marks
1	Harish Chand Rajora	No	Intimated during the interview			
2	Rajesh Bhardwaj	Yes	08	14	-	22
3	Purushottam Lal Sharma	Yes	08	07	05	20

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4	Anil Kumar	No	Intimated during the interview
5	Sonia Goyal	No	Intimated during the interview
6	Sunil Saini	No	Intimated during the interview

(vii) The Selection Committee re-examined the matter and observed that due weightage was already given to the applicant considering his past experience. The committee stated that no further action was required by the Recommendation Committee and the case was submitted to Special Commissioner (F&S).

(viii) Further, the case was referred to Law Deptt. to seek legal opinion and the Deptt. Opined that the query raised is administrative in nature, so the Deptt. may take decision at its own level in the matter.

(ix) Vide letter dated 19.08.2017 the abovementioned position was informed to the applicant with the remarks that if he is not satisfied with the order he may file appeal before the Ld. Financial Commissioner, Govt. of NCT of Delhi.

(x) Accordingly, the applicant filed appeal before the Ld. Financial Commissioner and after hearing the contentions the Ld. Financial Commissioner revertd back the case to Commissioner with the remarks that the case of petitioner deserves to be looked into again and the interest of justice would be met if the petitioner is heard again and a speaking order is passed by the Department and set aside the order dated 19.08.2017.

The Case was called and heard at length.

The Counsel of Appellant stated that the Rejection Order dated 14.01.2016 was not handed over to him timely and the same was received by him in the month of January, 2017. After receiving the Rejection Order, the appeal before the then Commissioner (F&S) was filed.

He reiterated the comments of the Appellate Authority in order dated 09.08.2016 wherein it was observed that the appellant was running Kerosene Oil Depot for the last 11 years and as per policy of the Department, he was supposed to be given preference over other candidates. It seems that this aspect has not been given due weightage while allocating the new FPS to Shri Rajesh Bhardwaj. The Commissioner further directed that the process be completed for allotment of new FPS under Circle-11 as per guidelines of the Department and the matter be referred to Selection Board, for allotment of new FPS, giving due weightage to the appellant Shri Purushottam Lal Sharma, considering his past experience of running KOD for 11 years as mentioned in the instant case. Accordingly, vide Order dated 09.08.2016 the Appellate Authority reverted back the case to the Assistant Commissioner (West) to take prompt action as stated above.

He further stated that the petitioner attended the interview and gave satisfactory reply to the Selection Board regarding the procedure, working and other queries asked by the Selection Board regarding PDS. He added that the petitioner was able to give all the answers correct and upto the

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satisfaction level of members of Selection Committee just because he was earlier holding KOD and well aware to the procedure and conditions. The Counsel of appellant submitted that the Selection Committee granted weightage mark of preferential category but allotted disproportionate marks regarding knowledge of rules and policy in favour of Shri Rajesh Kumar Bhardwaj to give him undue benefit. He stated that the Appellant fulfilled all the eligibility criteria as per Department's requirement.

The Counsel of Appellant added that the delay in providing the letter of rejection gives a wrong signal; it seems that rejection letter was intentionally delayed to allot the shop to the other person who had no merits. He stated that the said allotment is given to the other person who is not even qualified as compared to the petitioner not experienced as compared to the petitioner and also not a preferential candidate as the petitioner is; even then said allotment has been given to the some other person instead of petitioner clearly indicates injustice towards the petitioner. He submitted that a single line rejection order dated 14.01.2016 was passed without informing the ground of rejection, is devoid of merits.

The Counsel concluded the submission stating that the petitioner may be adjusted and a separate FPS could be allotted to him as he was an Ex-KOD holder and ran the Fair Price shop for 11 years without any complaint. He had a vast experience of the procedure, working conditions of the Department. He submitted that since One Nation One Card scheme is operational in Delhi and there is no problem to allot two FPSs as earlier done by the Department to adjust; in some other cases, he quoted the orders for reference. As regards, low card numbers he stated that the same depends on the destiny of the petitioner and ended the contention with the remarks that apart of merit, the petitioner may be adjusted by allotting a separate FPS to earn a livelihood.

The Assistant Commissioner (West)/Respondent contended the argument of Counsel of the petitioner and stated that there is a single vacancy and there is no policy of the Deptt. for grant of two FPS licence against one vacancy in same notified area. She submitted that the Department had a policy of rationalization of maximum 1200 cards with one FPS and in this case when only 906 cards are attached to the allotted FPS No. 9254 so there is no logic to create a new vacancy or to allot new FPS. She strongly opposed for adjustment of new FPS stating that it is only feasible if the card numbers are on higher side but in this case the attached card position is sound in nature and the distribution of SFAs to beneficiaries is smooth.

She submitted that the Department followed all the laid down guidelines for grant of FPS and all aspects were considered by the Selection Committee. Due weightage as admissible was given to the applicant and the authorization of FPS was granted to the best suitable candidate as per merit.

Shri Rajesh Kumar Bhardwaj, Prop. of Bhardwaj Store (FPS No.9254) stated that he has nothing to say in the matter.

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After hearing contentions of all the parties, examining their written/verbal submissions and perusing other relevant records placed before me, it is observed that six applications were received against one vacancy for allotment of FPS. The interview was conducted on 02.12.2015 and the claim of petitioner was considered and was rejected by the Selection Committee after due process. This is a fact that the applicant was an Ex-KOD holder and the supply of Kerosene Oil was stopped by Govt. in 2013 with the implementation of "Kerosene Free Delhi" and accordingly on perusal of score sheet it revealed that the Selection Committee awarded 05 marks to the petitioner on account of preferential category. However, considering the other aspects, as well as the performance of candidate during the interview another candidate obtained more marks and same was recommended by the Selection Committee. On the plea/appeal of appellant vide order dated 09.08.2016, the case was again referred to Selection Committee for re-examination but the Committee opined that due weightage had already been given to the petitioner considering his past experience and performance in the interview hence, no further action was required by the Committee. It will not be appropriate at this juncture to question the wisdom and decision of the Selection Committee for awarding the marks in the personal interview. The marks were awarded on the basis of the performance during the personal interaction / interview by the applicants and revisiting that decision now will be inappropriate.

Further, as per comments of the Assistant Commissioner the matter was referred to Policy Branch for opinion whereby the Policy Branch opined that "considering the past experience of applicant the Selection Committee has given him full 05 marks in scoring sheet but on the basis of performance during interview the Selection Committee recommended the name of Shri Rajesh Bhardwaj prop. of M/s. Bhardwaj Store for allotment of FPS and there is no provision to issue two licenses against one notified vacancy of FPS in the Departmental guidelines dated 27.07.2015."

Moreover, the Department had a policy of rationalization of maximum 1200 cards with one FPS and in this case only 906 cards are attached to the allotted FPS No.9254, so there is no logic to create a new vacancy or to allot new FPS as requested. As regards, adjustment of new FPS, it is justified only when the card position is on a higher side with the allotted FPS but in this case the card position is sound and the distribution of SFAs to beneficiaries is smooth without complaint.

Therefore, I do not see any reason to modify the order passed by the Licensing Authority. In view of the above, I am of the considered view that the appeal/representation filed by the petitioner has no merit hence the Cancellation order dated 19.08.2017 passed by the Assistant Commissioner (West) is hereby upheld.

The appeal is disposed of in the aforesaid terms.

Parties be informed accordingly.

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(SUSHIL SINGH)
SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY

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No. SPL.COMM./AA/FPS Appeal/F&S/2022/978-982 Dated: 21/09/2022

Copy to :-

1. The Ld. Financial Commissioner, Govt. of NCT of Delhi, 5, Sham Nath Marg, Delhi for information.
2. The Assistant Commissioner (West), F&S Deptt. GNCT of Delhi.
3. Shri Purshottam Lal Sharma, Prop., M/s. Dev Provision Store, C-11 (Nangloi Jat) through Assistant Commissioner (West).
4. Shri Rajesh Kumar Bhardwaj, Prop., M/s. Bhardwaj Store (FPS No. – 9254), C-11 (Nangloi Jat), through Assistant Commissioner (West).
5. SSA(IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.

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(SUSHIL SINGH)
SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY