

**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,
NEW DELHI-110002 Ph.No. 011-23379252**

No. PS/Comm/AA/FPS Appeal/F&S/2021/ 248-251

Dated: 13/08/2021

Appeal No. 15/2021

In the matter of:

M/s. Durga Store,
FPS No. 8666, Circle-08 (Mundka)
Delhi.

Shri Sunil

Appellant

Versus

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

Respondent

Date of Hearing: 04.08.2021

ORDER

The Order shall dispose of the appeal filed by Shri Sunil, Proposed Prop. M/s. Durga Store, FPS No. 8666, Circle -08 (Mundka) under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the Cancellation Order No. F.6/AC(NW)F&S/FPS-8666/2018/1334-37 dated 21.02.2018 passed by Assistant Commissioner (North-West).

Shri Sunil, appellant alongwith Shri Shailendra, Authorised Representative were present.

Shri Kulbhushan, Assistant Commissioner (North-West), Respondent was present.

The Case was called and heard at length.

The Authorised Representative submitted that the father of appellant was a FPS holder and authorisation of the same was granted to him by the Department in the year 2006. His son Shri Sunil Kumar S/o Late Shri Hosiyar Singh furnished information to FSO (C-08) (Mundka) that his father expired on 13.07.2017. After demise of Licensee no file with relevant documents was submitted by the family members/legal heirs of the Licensee for change of constitution. The shop was placed under suspension vide suspension order cum show cause notice dated 01.01.2018 and thereafter cancelled vide order in question.

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The Authorised Representative added that the original licensee of the FPS was passed away on 13.08.2017 and the brother of appellant was also expired in the same year. The deceased licensee survived by his wife, daughter in-law, one grandson, one granddaughter and one son i.e. the proposed proprietor. Death certificate of deceased licensee is submitted by him. The Authorised Representative of appellant stated that the appellant belongs to Scheduled Caste (Balmiki) community and whole responsibility of family lies with him. He submitted that he is maintaining his family's life through Beldari and playing rented E-Rikshaw for bread and butter. The appeal is filed late due to lack of knowledge and requested for condonation of delay. He further submitted that no notice or any call memo was served to him and no opportunity of being heard was offered to the petitioner before cancellation of shop and the matter has been decided ex-parte by the Respondent. The Authorised The petitioner requested to allow change of Constitution in his favour by admitting the present appeal as no complaint of black marketing or diversion of food grains is pending against the FPS.

The Respondent reiterated the contents of the Cancellation Order dated 21.02.2018 passed by the then Assistant Commissioner (North-West) and submitted that 06 notices or call memos dated 16.10.2017, 27.10.2017, 07.11.2017, 17.11.2017, 26.12.2017 and Suspension Order Cum Show Cause Notice dated 31.12.2017 were issued from time to time to appear before the Licensing Authority but no family members/ legal heirs of the deceased prop. Late Shri Hoshiyar Singh appeared on the different dates. Hence, it appeared that the family members/ legal heirs were no more interested to run the FPS No. 8666, M/s. Durga Store and accordingly the shop was cancelled vide order in question. However, during course of hearing the respondent admitted that no acknowledgment of the abovementioned letters were available.

After hearing contentions of both the parties, examining written/verbal submissions and perusing other relevant records placed before me, it is seen that the FPS Licensee Shri Hoshiyar Singh expired on 13.08.2017, leaving behind 05 family members consisting his Widow Wife, Daughters In-law, Grand Son, Grand Daughter and the Appellant. The FPS is the source of income to the family and no other family member is earning hand excluding appellant after demise of Licensee. The Appellant failed to furnish first information about death of Licensee and application for change of constitution within stipulated period as provided under rules i.e. 30 days of the death of Licensee due to lack of knowledge and non receipt of notices or call memo.

During the course of hearing the respondent also admitted that no acknowledgment were available and petitioner contended not receiving the order and becoming aware of it much later. The contention that he had not received any notice or call memo issued from time to time cannot be entirely discounted. The tenor of the order does not disclose that the letters were despatched under cover of Registered Post A.D. and since the admission of the respondent that the acknowledgment were not available it seems that this situation was circumstantial and unintentional and accordingly delay for submitting application for change of constitution is condoned.

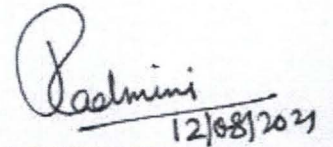
In view of above, considering the facts, circumstances and reasons given by the petitioner and in the interest of principle of natural justice and fair adjudication and to save the family from

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starvation on humanitarian ground, the case is remanded back to Licensing Authority / Assistant Commissioner (North-West) for necessary action and the Appellant is directed to submit the application for change of constitution alongwith complete requisite documents to Licensing Authority at the earliest. However, it is left open to Licensing Authority to see that other conditions mentioned in the Departmental orders issued from time to time are met by the applicant before allowing Change of Constitution. The petitioner is advised to approach the Licensing Authority for further necessary action.

The appeal stands disposed of.

Ordered accordingly. Parties be informed.


12/08/2021

(PADMINI SINGLA)

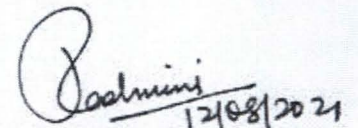
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PS/COMM./AA/FPS Appeal/F&S/2021/ 248 - 251

Dated: 13/08/2021

Copy to :-

1. The Assistant Commissioner (North-West), F&S Deptt. GNCT of Delhi.
2. Sh. Sunil Kumar, Proposed Prop. M/s. Durga Store (FPS No. - 8666), C-08 through Asstt. Commissioner (North - West).
3. Sh. Sunil Kumar, Proposed Prop. M/s. Durga Store (FPS No. - 8666), C-08 R/o Jhuggi No.144/W/49, Block F-7, Sultan Puri, Delhi - 110086.
- ✓ 4. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.


12/08/2021

(PADMINI SINGLA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY