

**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.PA/COMM./AA/FPS Appeal/F&S/2020/169-172

Dated: 06-07-2021

Appeal No.08/2021

In the matter of:

M/s. Jai Durga Prov. Store,
FPS No. 6788, Circle-20
Delhi.

Shri Naresh Kumar Bansal

Appellant

Versus

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

Respondent

Date of Hearing 05.07.2021

ORDER

The instant Appeal has been filed by Naresh Kumar Bansal, Prop. of M/s. Jai Durga Provision Store, FPS No. 6788, Circle -20 under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the Order dated 10.06.1985 passed by Assistant Commissioner (West).

Shri Rajiv Sharma, Counsel of appellant and Shri P.L Meena on behalf of Assistant Commissioner (West) were present.

The Case was called and heard at length.

The Counsel of the Appellant submitted that the appellant was running a fair price Shop bearing no. 6788 under Circle-20, at WZ-23 CA/1E, Gali No. 16, Ram Nagar, Tilak Nagar-I, New Delhi. The appellant could not submitted draft in the bank to procure the SFAs at subsidized rate as he had past history of medical illness due to high Blood Pressure, Asthma and other chronic diseases at the relevant time. He stated that the legal heirs of the appellant was very younger at the time of cancellation of authorization of FPS therefore, the appellant could not be present physically or through representative to defend his case. He submitted that the appellant and his legal heir have no work after the COVID-19 pandemic and all are unemployed as this FPS is the only source of income for them. The Counsel requested for condonation of delay in filing the present appeal on medical ground and the present appeal is filed to challenge the Cancellation Order dated 10.06.1985 passed by the then Asstt. Commissioner (West) and requesting therein to allow the new premises for business and restoration of license of FPS in favour of Appellant.

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The respondent vide order dated 10.06.1985 cancelled the FPS on the following grounds:-

- (i) The FPS was found closed from 25.03.1985.
- (ii) The FPS holder had not taken the SFA for the first and second fortnight of April, 1985.
- (iii) The notice was sent for service to the circle but it was reported by the Circle FSO that the business premises of the FPS holder remained closed and the FPS was not functioning. The show cause notice was sent to the residential address and the date of hearing was fixed for 28.05.1985. Nobody appeared nor has any information been received. Therefore, the case was decided ex-parte.
- (iv) On 28.05.1985, the Circle FSO visited the business premises and reported that the landlord of the premises informed that the FPS holder no. 6788 vacated the business premises w.e.f. 01.01.1985 and further stated that he was not his tenant. The statement of the landlord was also recorded.
- (v) In view of the report of FSO, the Licensing Authority mentioning "*it appears that the FPS holder is perhaps not in a position / not interested in running the FPS.*" cancelled the FPS and the entire security amount was forfeited vide order in question.

After hearing contentions of the petitioner, examining written submissions and perusing other relevant records placed before me, it is noted that the Licensing Authority cancelled the FPS vide Order dated 10.06.1985 and the Appellant filed the instant Appeal on 15.04.2021 almost a gap of approx. thirty six years which is already time barred as per provisions contained in the Department's order dated 12.01.1981.

As regard medical exigencies, certain provisions have also been laid down by the Department to address issues pertaining to leave on medical ground which the Appellant chose not to exercise. It is needless to say that inadequate attention to the functioning of an FPS due to repeated linking and delinking of ration cards to different Fair Price Shops on account of cancellation of Fair Price Shop results in great inconvenience to the eligible beneficiaries.

 The Licensee discontinued the operation of FPS by not taking the Specified Food Articles for the first and second fortnight of April, 1985 and hence the Appellant acted in an irresponsible manner and violated terms and conditions of the license. The disruption in distribution of Specified Food Articles caused hardship and inconvenience to the beneficiaries which is not acceptable. It is also noted that as per the terms and conditions of the License the Fair Price Shop holder is responsible for carrying out retail sale of Specified Food Articles in accordance with the directions and instructions issued from time to time regarding purchase, sale and storage of Specified Food Articles.

Therefore, considering the facts, it is not possible to allow the restoration of the authorisation of FPS. Hence, the Order of Assistant Commissioner (West) is upheld and the appeal is accordingly dismissed.

The appeal is disposed of.

Parties be informed accordingly.


6/07/2021

(PADMINI SINGLA)


COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/COMM./AA/FPS Appeal/F&S/2020/169-172

Dated: 06-07-2021

Copy to :-

1. The Assistant Commissioner (West), F&S Deptt. GNCT of Delhi.
2. Shri Naresh Kumar Bansal, Prop., M/s. Jai Durga Provision Store (FPS No. – 6788), C-20 through Assistant Commissioner (West).
3. Shri Naresh Kumar Bansal, Prop. M/s. Jai Durga Provision Store (FPS No. – 6788), R/o House No. F-75, Kamla Nagar, North, New Delhi – 110007.
- ✓ 4. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.


6/7/2021

(PADMINI SINGLA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY