

**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.**

No.PS/COMM./AA/FPS Appeal/F&S/2021/ 65-67

Dated: 25-5-21

Appeal No. 17/2020

**M/s. Keshar General Store,
FPS No. 8367, C-62
Mohd. Imran**

.....Appellant

Vs

**The Assistant Commissioner (East)
Deptt. of Food Supplies & Consumer Affairs,
Delhi .**

.....Respondent

ORDER

The instant Appeal has been filed by **Mohd. Imran**, son of Prop. of M/s. Keshar General Store, **FPS No. 8367, Circle -62** under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the Order No.F.AC(E)/F&S/2018/5466-72 dated 26.05.2018 passed by Assistant Commissioner (East).

Mohd. Imran, appellant alongwith Shri Shailendra, Authorised Representative and Shri Rajesh Ahuja, Assistant Commissioner (East) were present.

The Case was called and heard at length.

The Authorised Representative of Appellant submitted that the present appeal has been filed to set aside the cancellation order dated 26.05.2018 issued by the Assistant Commissioner (East)/Licensing Authority. He stated that the authorisation no. 8367 was issued to Late Shri Fateh Mohd. in the year 1992 under the name and title of M/s. Keshar General Store situated at H-54, Dilshad Garden, Delhi – 110095. Vide Suspension – Cum – Show Cause Notice dated 11.01.2018 the respondent directed to submit some documents for e-Pos updation. It has been directed to appear before the Licensing Authority on 17.01.2018 but due to illness the FPS holder failed to appear as he was in his native place/village. The salesman Shri Arun Kumar appeared on 17.01.2018. The date of hearing was fixed on 25.02.2018, 16.03.2018 and 22.05.2018 and due to non appearance of the Appellant the authorisation was cancelled on 26.05.2018. He stated that the father of petitioner who is FPS holder was ill since January, 2018 and not able to reach Delhi in any condition and thereafter expired on 10.06.2018 at his village Hajipur, U.P. Death certificate has been submitted in this regard.

He submitted that the FPS holder expired on 10.06.2018 leaving behind his wife, two daughters and one son (Petitioner). The petitioner filed an application dated 15.10.2020 for

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change of constitution in his favour as he is 10th passed to carry out the responsibilities of his family. He added that he is not aware about the rule position of filing the request as well as appeal whenever he came to know from someone he filed request/appeal and accordingly requested for condonation of delay on humanitarian ground.

The Assistant Commissioner (East), Respondent strongly opposed the pleas and stated that Shri P.C. Koli, FSO (C—62) informed that FPS No.8367 had not provided particulars/ documents related to e-POS updation. Such particulars are necessary in the e-POS distribution system. The FPS was suspended vide Suspension – Cum – Show Cause Notice dated 11.01.2018 with the direction to appear before the Licensing Authority on 17.01.2018 with necessary documents. On due date Shri Arun Kumar, Salesman telephonically requested for grant of more time. The date was fixed for 27.02.2018 and the salesman appeared and again sought time due to illness of FPS owner. The next date of hearing was fixed for 16.03.2018 but no one appeared with particulars / necessary documents as asked for.

The shop was suspended on 11.01.2018 and whereas upon expiry of 90 days of suspension the law stipulates reinstatement the Department afford another final opportunity vide order dated 14.05.2018 to file the necessary information / documents on or before 22.05.2018 but the FPS holder ignored the notice and it make clear that the dealer is not interested to file the requisite documents / information in respect of FPS in accordance with laid down norms and guidelines. He added that the subject matter containing prayer to reinstate and change of constitution hence no specific comments can be offered as no grounds are cited.

After hearing contentions of both the parties, examining their written, verbal submissions and perusing other relevant records placed before me, it is noted that FPS holder filed an application for Change of Constitution in the month of October, 2020 whereas the Assistant Commissioner (East)/ licensing authority issued cancellation order on 26.05.2018. He filed the instant Appeal on 15.10.2020 almost a gap of two years which is already time barred as per provisions contained in the Department's order dated 12.01.1981.

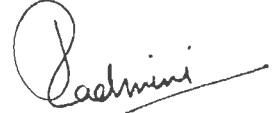
As evident and admitted by the petitioner, the Licensing Authority afford ample opportunities to submit the requisite documents / information on 17.01.2018, 25.02.2018, 16.03.2018 and 22.05.2018 but the FPS holder is reluctant to comply the directions and due to non appearance of the Appellant / non submission of documents / information as asked for, which were required for e-POS updation the authorisation was cancelled on 26.05.2018. If the FPS holder wants to comply the directions of Licensing Authority, instead of seeking time he could submit the documents / information through the Salesman alongwith authority letter who appeared twice but he failed to do so shows that the Appellant acted in an irresponsible manner and violated terms and conditions of the license which are not acceptable. Secondly, the petitioner applied for change of constitution of firm on 15.10.2020 whereas his father was expired on 10.06.2018 and the shop was cancelled on 26.05.2018 which is almost a gap of two year which is already time barred as per provisions

contained in the Department's order dated 12.01.1981 and excuse of lack of knowledge of terms and conditions for issuing authorisation / change of constitution cannot be acknowledged.

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

The appeal is disposed off.

Parties be informed accordingly.



(PADMINI SINGLA)

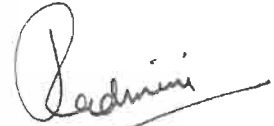
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/COMM./AA/FPS Appeal/F&S/2021/ 65-67

Dated: 25-5-21

Copy to :-

1. The Asstt. Commissioner (East), F&S Deptt. GNCT of Delhi
2. Mohd. Imran, Appellant M/s Keshar General Store (FPS No. - 8367), C-62 through Asstt. Commissioner (East).
3. Mohd. Imran, Appellant M/s Keshar General Store (FPS No. - 8367), C-62 R/o House No. H-175 B, Dilshad Garden, Delhi - 110095.



(PADMINI SINGLA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY