

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.PA/COMM./AA/FPS Appeal/F&S/2020/ 718-19

Dated: 24.12.2020

Appeal No. 49/2019

In the matter of:

M/s. Singh Store
FPS No. 6968, Circle-58,
Laxmi Nagar, Delhi

Sh. Sukh Dev Singh

Appellant

Versus

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

Respondent

ORDER

Whereas, the instant 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 07.11.2019 passed by the Assistant Commissioner (East).

Shri Sukh Dev Singh alongwith Shri Shailendra, A.R. and Shri Y.V.K.B. Raju, FSO (C-58) were present for hearing.

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

As per deployment order dated 04.06.2019 issued by Enforcement Branch, a inspection team consisting officer/officers namely Shri Rajeev Chhabra, Assistant Commissioner (North-West), Shri Madan Lal, FSO, C-20/21, Shri Bhupinder Singh, FSO, C-57/58, Shri Parveen Kumar Sharma, FSI, C-68/69 and Shri Jaswant Kumar Anand FSI, C-40/43/50 were deployed to inspect the FPS No.6968, M/s. Singh Store, Circle-58 (Laxmi Nagar) alongwith Hon'ble Minister (F&S). The Inspection was conducted on 06/06/2019 at 10.30 PM. The Inspection Team after scrutinizing record reported net variation to the tune of 7.98 Qtls. and found 11 kg loose Atta in the shop. The shop was Suspended vide order dated 07.08.2019 followed by Cancellation order dated 07.11.2019. A Tehrir for lodging FIR against the FPS holder was submitted by Shri Bhupinder Singh, FSO, C-58 vide complaint no.81880541902304 on 11.09.2019 in Police Station, Laxmi Nagar, Delhi for violation of the Essential Commodities Act 1955, with the approval of Commissioner (F&S).

The appellant submitted and argued as under:-

1. That on 06.06.2019 a inspection was conducted by the officer/officials of the Department alongwith Hon'ble Minister (F&S) at FPS No.6968, M/s. Singh Store, C-58. The team after scrutinizing record reported net variation to the tune of 7.98 Qtls. (Wheat-5.65 Qtls. (Short) + Rice-1.33 Qtls. (Excess) + Sugar 1.0 Qtls. (Excess) and found 11 kg loose Atta in the shop.
2. The appellant appeared and filed reply on 20.08.2019 explaining his innocence against the alleged discrepancies that the sale of 5.64 Qtls of Wheat was made by him on 06.06.2019 in the morning to the card holders and due to rush of the card holders the said quantity could not be entered in the sale register, however, 38 cash memos (141 units) were issued by the appellant qua the said quantity to the card holders. Since, the said quantity of Wheat was not entered by the appellant in the Sales Register, the inspecting team refused to take into account the said quantity during the physical inspection of the stock. If the said quantity is taken into account, the shortage of Wheat remains only 1 kg which is minor in nature and does not entails any action as per the departmental norms.
3. That 1.33 Kg of Rice, 1.0 Qtls of Sugar and 11 Kg of Atta belong to Krishan Kunj Extension Vikas Simiti, Part-I (Regd.), Laxmi Nagar, Delhi - 92 and inadvertently, the alleged quantity was wrongly calculated by the inspecting officials as stock of food articles belongs to the appellant.

That vide letter dated 19.08.2019 the above named Simiti also clarified the same. The Simiti submitted that the SFAs in question were meant for the purpose of Bhandara which were lying in the FPS of the Appellant and said articles were wrongly taken into account as PDS stock of the appellant at the time of inspection.

5. That total no. of 578 cards are attached with the FPS and out of 578 cards, only 4 cards of AAY are attached with the above FPS. It is submitted that an AAY card holder is entitled to receive only 1 Kg of sugar at subsidized rate under NFS Act. So, it is clear that alleged quantity of 100 Kg of sugar belongs to the above Simiti.
6. That the Cancellation order dated 07.11.2019 is arbitrary, illegal, non-speaking and without application of mind as the appellant has been running the FPS since 1985 without any complaint. That there is slight delay of 3 days in filing of the present appeal so, it is requested to condone the said delay.

The Respondent submitted as under :-

That as per deployment order dated 04.06.2019 issued by Enforcement Branch, a inspection team was deployed to inspect the FPS No.6968, M/s. Singh Store, Circle-58 (Laxmi Nagar) alongwith Hon'ble Minister (F&S). The Inspection was conducted on 06/06/2019 at 10.30 PM. The Inspection Team after scrutinizing record reported net variation to the tune of 7.98 Qtls. and found 11 kg loose Atta in the shop. The shop was Suspended vide order dated 07.08.2019 followed by Cancellation order dated 07.11.2019. In response to Suspension – Cum – Show Cause Notice the petition filed reply which was not satisfactory. A Tehrir for lodging FIR against the FPS holder was submitted by Shri Bhupinder Singh, FSO, C-58 vide complaint no.81880541902304 on 11.09.2019 in Police Station, Laxmi Nagar, Delhi for violation of the Essential Commodities Act 1955, with the approval of Commissioner (F&S).

After hearing contentions of both the parties, examining written submissions and perusing other relevant records placed before me, it has been noticed that the Licensing Authority simply stated that the Licensee is duty bound to furnish records in a mechanical manner and thus has not passed a speaking order after considering and examining the contentions / submissions of the Appellant.

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 (East), who will afford one more opportunity of hearing to the petitioner and pass a speaking order afresh on merits.

The appeal stands disposed off.

Ordered accordingly. Parties be informed.



(G.S. MEENA)

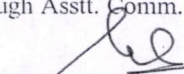
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/Comm./AA/FPS Appeal/F&S/2020/718-19

Dated: 24.12.2020

Copy to :-

1. The Asstt. Commissioner (East), F&S Deptt., Delhi.
2. Sh. Sukh Dev Singh, M/s Singh Store, FPS No. 6968, Circle-58 (East), Delhi through Asstt. Comm. (East).



(G.S. MEENA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY