

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/ 710 - 711

Dated: 22/12/2020

Appeal No. 07/2020

In the matter of:

M/s Prem Chand Gupta,
FPS No. 3783, Circle-27 (Rajouri Garden)
Delhi

Sh. Prem Chand Gupta

.....
Versus

Appellant

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

.....

Respondent

ORDER

Whereas, Sh. Prem Chand Gupta, the licensee/proprietor of M/s. Prem Chand Gupta, FPS No. 3783, Circle-27 filed appeal dated 02.07.2020 under Delhi Specified Articles (Regulation of Distribution) Order, 1981, against the Cancellation Order of dated 05.06.2020 passed by the Respondent.

Sh. Shailendra, AR and Sh. Ram Avtar Meena, Asstt. Commissioner (West) were present.

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

The appellant filed the present appeal to challenge the cancellation order dated 05.06.2020 passed by the Asstt. Commissioner (West). That during a physical inspection carried out by the Enforcement Team a net variation to the tune of 7.82 Qtls. (5.21 Qtls. Of Wheat and 2.61 Qtls. Of Rice) excess was found in the appellant's shop alongwith other deficiencies and irregularities.

The shop was suspended vide order dated 20.03.2020 with the direction to show cause in writing on 27.03.2020 at 03:00 PM as to why the shop should not be cancelled. That on 14.04.2020, the appellant filed his reply to the charges levelled in Suspension-sum-show cause notice issued by the respondent.

That on 05.06.2020, the respondent has cancelled authorization of the appellant and security deposit of ₹ 10,000/- has already been forfeited vide Suspension-cum-show-cause notice dated 20.03.2020. Hence, the present appeal is being preferred on the following grounds:

- a) That the FPS of the appellant was inspected on 10.10.2019, but his license was suspended on 20.03.2020 i.e. after passing of more than 5 months.
- b) That no prior notice was issued to the appellant before issue of suspension -cum-show-cause notice. It is submitted that no opportunity of hearing was afforded to the appellant at the time of issue of suspension-cum-show-cause notice with forfeiture of entire security amount ₹ 10,000/-
- c) That as per inspection dated 10.10.2019, only charge of 03 Kg. of excess wheat is made out against the appellant. It is beyond comprehension how the charge of 03 Kg. of excess wheat has been increased to 7.82 Qtls. After 05 months.
- d) That the impugned cancellation order is non-speaking. It is submitted that the respondent has not proved charge against the appellant. It is submitted that the appellant has been regular in sending monthly report under DR IV-V to the FSO, Circle-27 and according to which, only charge of 03 Kg. excess wheat is made out against the appellant.
- e) That the respondent did not supply report dated 12.05.2020 of FSO, Circle-27 to the appellant so that the appellant could know on which basis such false charge had been imposed against him.

Contd....2/-

- f) That the cancellation order is non-speaking. It is submitted that the respondent has failed to state which provision/clause of the control order has been violated by the appellant. The respondent has also failed to prove how the variation to the tune of 7.82 Qtls. in stock has been found against the appellant. It is submitted that the appellant had already submitted DR IV-V for the month of July, August, September and October, 2019 to the Circle Office. Even the respondent did not find the same wrong. It is submitted that as per DR IV-V of these 4 months, only case of 03 Kg. variation in stock is made out against the appellant.
- g) That the appellant was issued license to run the above FPS in the year 1972-73 by the department and he has been running the said FPS for the last 48 years as per departmental norms. In the past 48 years, no serious matter has been reported against the appellant. None of the card holders has made any complaint against the appellant. That the appellant is an aged person of 77 years and the said FPS is only source of his income.

The respondent submitted that after receipt of the case file from Enforcement Branch and after obtaining necessary direction from Competent Authority the FPS was suspended and thereafter cancelled in accordance with guidelines issued under the provisions of E.C Act/Control Order 1981 after affording ample opportunities to the appellant. The quantity of diverted SFA's mentioned in the cancellation order dated 05.06.2020 was based on the SVS prepared by the Inspecting Team. The appellant could not submit his own record (DR IV-V) for the complete period for which he has prepared the calculation sheet which has been submitted by the appellant on 27.03.2020 and 17.04.2020. The case is based on complaints made by the beneficiaries.

After hearing contention of both the parties, perusing their written/oral submissions and examining other relevant record placed before me, it is noticed that the inspection was conducted on 10.10.2019 by Enforcement Branch and the Cancellation Order was issued on 05.06.2020 by the Licensing Authority / Assistant Commissioner (West) and the impugned cancellation order is non-speaking on the point of variation to the tune of 7.82 Qtls. (Wheat 5.21 Qtls and Rice 2.61 Qtls. – Excess) against the appellant as he stated that the variation is 3 Kg (Excess) clarification in this regard is required.

Accordingly, keeping in view of principle of natural justice, fair and impartial adjudication, the case is remanded back to Licensing Authority/Assistant Commissioner (West) with the direction to afford an opportunity of hearing to petitioner and decide the matter afresh on merits after addressing all the contentions of petitioner and pass a speaking order as per relevant rules and guidelines of the Department.

The appeal stands disposed of.

Ordered accordingly. Parties be informed.



(G.S. MEENA)

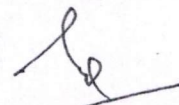
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/Comm./AA/FPS Appeal/F&S/2020/ 710-711

Dated: 22/12/2020.

Copy to :-

1. The Asstt. Commissioner (West), F&S Deptt., Delhi.
2. Sh. Prem Chand Gupta, Prop. of M/s Prem Chand Gupta, FPS No. 3783, Circle-27 through Asstt. Commissioner (West).



(G.S. MEENA)

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