

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/ 696 -97

Dated: 17.12.2020

In the matter of:

M/s Mukesh Provision Store

FPS No. 8281, Circle-34 (Matiala)

Delhi

Sh. Chhote Lal

..... **Appellant**

Versus

The Assistant Commissioner (South-West)

Deptt. Of Food Supplies & Consumer Affairs

..... **Respondent**

ORDER

Whereas, Sh. Chhote Lal, the licensee/partner of M/s Mukesh Provision Store, FPS No. 8281, Circle-34 (Matiala) filed instant appeal under Clause 6 of Delhi Specified articles (Regulation of Distribution) Order, 1981 and PDS Order, 2001 against the cancellation order dated 26.09.2018 passed by the Assistant Commissioner (South-West).

The petitioner and respondent were called for hearing on 12.11.2020 at 12:00 PM. Sh. Dhurv Aggarwal, Counsel of the Petitioner and Sh. Deshraj, Asstt. Commissioner (South-West) were present.

The appellant has stated following in his appeal:

1. That the appellant has a Fair Price Shop bearing no. 8281 functioning at Circle-34 (Matiala) to distribute SFA's to the card holders on subsidized rates authorised by the Department of Food Supplies & Consumer Affairs Delhi. That the FPS was allotted and running under partnership of Sh. Chhote Lal and his father Sh. Kameshwar Pandey vide partnership deed dated 12.05.2017.
2. That the authorization of the shop was valid upto 18.04.2018 and the same is to be renewed. A request for renewal of license was submitted through FSO-34 to Licensing Authority for renewal of license by Sh. Chhote Lal one of the partner and also informed about the illness of Sh. Kameshwar Pandey (IInd Partner).
3. The validity of the License was expired on 18.04.2018 and not been renewed because of non-appearance of Sh. Kameshwar Pandey one of the partner in the said FPS. The shop was suspended vide order dated 30.06.2018 and subsequently cancelled vide order dated 26.09.2018.
4. That since the month of April, 2018, the appellant herein, being the son, was engaged in medically treating his father i.e. another partner and other related family issues because of which he was unable to appear before the respondent to show cause his reasons for non-appearance or renewal of his FPS. After which the appellant herein, was suffered from an internal family dispute for considerably a long time which cause immense stress and torture upon him and subsequently, he was forced to reside at separate rented accommodation.
5. That thereafter, the Corona epidemic came and during the lockdown period, it is not possible to approach before the Hon'ble Court and now the appellant herein, knocking the door of this Hon'ble Court on the below mentioned grounds:
 - a. Because the appellant had never breached the terms and conditions for the FPS and followed the guidelines as mentioned in Delhi specified order or any other related orders/guidelines/provisions and is successful in maintaining the trust between the department and himself.

- b. Because the withdrawing partner i.e. Kameshwar Pandey is adamant for not giving NOC, without any sufficient cause, in favour of the continuing partner despite several requests made to him.
- c. Because the continuing partner is at the verge of snatching away his only livelihood due to the malafide intention of the withdrawing partner and hence he is deliberately putting hindrance in the smooth functioning of the appellant. Because the circumstances occurred were beyond the control of the continuing partner and as such he has no fault on his part.
- d. Because the appellant is a sole bread earner of his family and his family is totally dependent on him and the appellant had not other source of income from any side. It can be easily imagined that in the situation of COVID-19, the appellant had not earned even a single penny and he and his family is at the stage of starvation.
6. During the course of hearing held on 12.11.2020, it has been stated by Shri Chhote Lal, IInd Partner that he amicably resolved all his issues with his father Shri Kameshwar Pandey, Ist Partner who is now mentally and physically fit to resume his work. He further assured to present him before the undersigned.

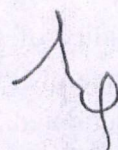
The Assistant Commissioner (South-West), respondent contended that the FPS was cancelled after providing ample opportunities and as per the guidelines/provisions of the department.

After hearing contentions of both the parties, examining written submissions and perusing other relevant records placed before me, it has been noticed that the licence of the FPS was valid upto 18.04.2018 and has not been renewed due to non-appearance of one of the partner namely Shri Kameshwar Pandey before the Licensing Authority/Assistant Commissioner (South West) and accordingly the FPS was cancelled. On 14.12.2020 both the partners were present before me and filed Affidavit individually stating therein that their dispute was amicably resolved and now both the partners are ready to appear before the Licensing Authority.

In view of above, considering the facts, circumstances and reasons given by the petitioner for delay in filing the appeal is condoned and in the interest of principle of natural justice the case is remanded back to Licensing Authority / Assistant Commissioner (South West), who will afford one more opportunity of hearing to the petitioner and decide the matter afresh on merits. The petitioners are advised to approach the Licensing Authority for further necessary action.

The appeal stands disposed of

Ordered accordingly. Parties be informed.



(G.S. MEENA)

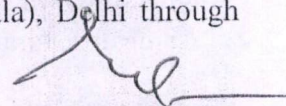
COMMISSIONER (F&S)/APPELLATE AUTHORITY

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Dated: 17.12.2020

Copy to :-

1. The Asstt. Commissioner (South West), F&S Deptt., Delhi.
2. Sh. Chhote Lal, M/s Mukesh Provision Store, FPS No. 8281, Circle-34 (Matiala), Delhi through Asstt. Comm. (South-West).



(G.S. MEENA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY