

**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/2020/698-99

Dated: (7.12.2020)

**Appeal No. 35/2019**

**In the matter of:**

**M/s Abdul Hamid**  
FPS No. 3080, Circle-11,  
Nangloi Jat, Delhi

**Sh. Abdul Hamid**

..... Appellant  
Versus

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

..... Respondent

**ORDER**

Whereas, the instant review 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 26.06.2019 passed by the Assistant Commissioner (West) in view of the following discrepancies found by Enforcement Inspection Team during surprise visit on 26.04.2019:-

- (i). The sale 0.12 Kg of rice on 18.04.2019 shown in the sales register no. 1 has not been reflected in the stock register.
- (ii). Two cash memos were issued on one card no. 077000000771 in the name of Mrs. Chandrawati.
- (iii). 08 Card holders were not issued cash memos but stock not found in FPS at the time of visit. Total unit covered 25, Wheat- 1.00 Qtl and Rice- 0.25 Qtl.
- (iv). Less quantity of SFA issued to one card holder no. 077000000955 vide cash memo no. 910. The receipt of Weighment was not shown by the FPS holder and statutory boards as per the requirement of the department were not put up in the premises.
- (v). Upon physical verification and scrutiny of the record in enforcement branch, the net variation was recorded to the tune of 1.30 Qtl (Short).

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

The appellant argued that while preparing the SVS the inspecting team did not give benefit of admissible shortage as prescribed in the order of the department issued on 07.03.2018 as till the date of inspection the appellant sold out 74.89 Qntl. of wheat and 19.11 Qntl. of Rice to the cardholders. So the admissible shortage comes to 46.05 Qntl.

As regard non distribution of ration to 08 cardholders it is submitted by the appellant that he personally visited at the address of each card holders and assure that most of the cardholders have received food grains from the appellant due to heavy rush of the public the appellant might have issued ration 02-04 card holders without issuing cash memo. In this context, 03 card holders have already executed affidavit in which they have accepted to receive ration from the appellant and getting the cash memo later on. The quantity of food grains of these ration card holders comes to 40. He further submitted that at the time of inspection the wheat and rice to the tune of 39 to 45 Kg. was lying on the floor of the FPS but the said quantity was not taken in to the account by the inspecting team despite of request.

It has been submitted by the appellant that without considering actual and complete facts the respondent did not permit shortage of food grains and the quantity of food grains lying on the floor of the FPS which was not counted by the inspecting officials and the request was also not accepted to give him some time for furnishing affidavits of the cardholders in his defence against charges of non issue of ration to the card holders.

He further submitted that he is an aged person of 80 years old and this FPS is only source of his income. He has been running the FPS for so many years without any complaint either by the card holders or by the department authorities.

Contd....2/-



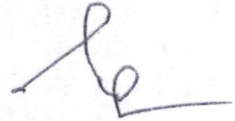
The respondent contended that the inspecting team has followed the rules and regulations in conducting the inspection of FPS with the approval of Competent Authority. Sufficient opportunities were also provided and on his request all the photo copies of the record has been provided to the FPS holders.

After hearing contention of both the parties, perusing their written/oral submissions and examining other relevant record placed before me, it is noted that as per departmental order dated 07.03.2018 certain shortages on account of retail sale of SFA's is allowed at the time of stock taking during inspection. Accordingly, shortage of approx. 46 Kg. should have been allowed by the Inspection Team while preparing the Stock Variation Statement. Further, the Appellant submitted 03 affidavits in r/o of the beneficiaries wherein they have accepted that the ration has been received from the appellant and got cash memos later, the quantity of such SFAs comes to the tune of 40 Kg which should have been taken into account by the Licencing authority for deciding the matter. After considering the claimed shortage and quantity of SFAs distributed to 03 beneficiaries whose affidavit have been submitted by the Appellant, it is noted that the variation of remaining quantity of SFAs would be approx. 44 Kg (i.e. Total Variation 1.30 Qtls. – Shortage allowed approx. 46 Kg – Distributed quantity of SFAs to 03 beneficiaries 40 Kg = Balance approx. 44 Kg SFAs in total). As per Departmental Orders, in case of minor variation of stock upto 50 Kg of SFAs penalty of forfeiture of whole security amount is to be imposed. It seems that the contention of appellant was not properly addressed while cancelling the FPS.

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 decide the matter afresh on merits after addressing the contention 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/ 698-99

Dated: 17.12.2020

Copy to :-

3. The Asstt. Commissioner (West), F&S Deptt., Delhi.
4. Sh. Abdul Hamid M/s Abdul Hamid, FPS No. 3080, Circle-11 (Nangloi), Delhi through Asstt. Comm. (West).



(G.S. MEENA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY