

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/2019/ 512-513

Dated: 13.11.2020

APPEAL NO. 08/2020

In the matter of:

M/s Mool Chand Gupta,
FPS No.5635, Circle -43 (Malviya Nagar),
86-A/1, Gali No - 3, Krishna Nagar, New Delhi

Through its proprietor Sh Mool Chand Gupta -----

Appellant

V/s

The Assistant Commissioner (New Delhi)
Deptt. of Food Supplies & Consumer Affairs,-----

Respondent

ORDER

Whereas, Sh Mool Chand Gupta, the licensee of M/s Mool Chand Gupta, FPS No. 5635, Circle Circle -43 (Malviya Nagar) C-43, 86-A/1, Gali No - 3, Krishna Nagar, New Delhi, has filed an Appeal under the Delhi Specified Articles (Regulation of Distribution) Order, 1981 and PDS Order, 2001 against the Cancellation Order No. AC (ND)/ F&S/FPS-5635/2020/321 dated: 23.06.2020 issued by the Assistant Commissioner (N.D.), Respondent.

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

The Appellant submitted the following:

- (i) The impugned cancellation Order dated: 23.06.2020 is illegal, arbitrary, without application of mind and politically motivated.
- (ii) The Hon'ble area MLA, Sh Somnath Bharti with his supporters were present and influencing the concerned officials during the inspection of the above FPS despite the fact that their presence was absolutely unlawful.
- (iii) The Appellant does not deal in Atta and Maida. The alleged quantity of Atta and Maida was for his personal use. The appellant organize Bhandara every year in Navratri outside his ration shop and the appellant had purchased it from the market for the said purpose as well as for his personal use.
- (iv) The charge of excess wheat to the tune of 4.37 quintal is concerned is also not sustainable as 28 card holders had refused to take wheat from the appellant because of the same being of poor and sub-standard quality. These 28 card holders were collectively entitled for 4.42 quintals of wheat. Hence, the said excess quantity of wheat was lying in the appellant's shop at the time of inspection and the appellant was in the process to inform the department as the same was of poor and inconsumable quality.
- (v) The alleged shortage of rice i.e.1.78 quintals of rice is general in nature which happens in normal course of delivery of food grains to the beneficiaries. Also, 42 Kg parmal rice which was available inside the above FPS was not accounted by the concerned officials of inspecting team. In such way, there was no shortage of rice in the FPS of the appellant and as such no charge of alleged shortage of rice is maintainable against the Appellant.



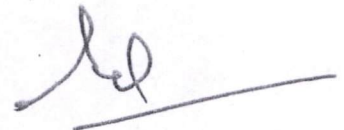
- (vi) The Appellant has never denied supplying wheat to the said complainant. She came to Appellant's ration shop and requested to supply her Atta in emergency. The Appellant supplied her Atta kept for his personal use without charging any sum of money. She was told to come again for taking delivery of her wheat. She did not lodge complaint either to FSO or any other competent authority. Her complaint was forwarded by the Hon'ble MLA in order to frame the Appellant and implicate him in a false case.

The Respondent stated the following:

- (i) The AC (New Delhi) has passed the impugned order as per the clause 4 of Specified Food Article (Regulation of Distribution) Order 1981.
- (ii) The Circle officials i.e. FSO & FSI who has carried out inspection of premises are authorized and empowered as per the provision of clause 25 of Specified Food Article (Regulation of Distribution) Order 1981. The Hon'ble area MLA of constituency is the Head of Circle Vigilance Committee.
- (iii) The Cancellation Order were issued on the grounds of variation in SFAs items i.e. Wheat and Rice to the tune of Wheat 4.37 Qtl (Excess) & Rice 1.78 Qtl (Short) amid other discrepancies.
- (iv) The Appellant has not provided any complaint about the quality of the SFA before the incident. Hence, the statement provided by ration card holder is an afterthought.
- (v) No such issue of unaccounted rice was raised by the FPS holder while submitting the statement dt. 19.02.2020 at the time of visit of official.

After hearing contentions of the parties, perusing their written submissions and examining other relevant records placed before me it seems that the contention of appellant about refusal of taking the food-grains and availability of Rice inside the shop was not properly addressed while cancelling the FPS. Therefore, keeping in view of principle of natural justice and fair and impartial adjudication, it is felt that a sample survey of households attached with the FPS including all the card holders refused to receive the food grains would serve the interest of justice and fair play. Therefore, the case is remanded back to Assistant Commissioner (N.D.), Licensing Authority with direction to conduct a door to door survey of at least 10 % of the beneficiaries then attached with the FPS including the cardholders who refused to receive the food grains and to decide the matter afresh on merits, within one month of this Order, after due consideration of facts and circumstances of the case.

The appeal stands disposed of. Parties be informed accordingly.



(G.S. MEENA)

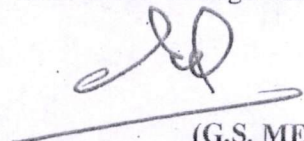
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/COMM./AA/FPS Appeal/F&S/2019/

Dated:

Copy to :-

1. The Assistant Commissioner (N.D.); F&S Deptt., GNCT of Delhi.
2. Sh Mool Chand Gupta, Proprietor of M/s Mool Chand Gupta, FPS No.5635, Circle -43 (Malviya Nagar), 86-A/1, Gali No - 3, Krishna Nagar, New Delhi through Assistant Commissioner (N.D.).



(G.S. MEENA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY