

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/FPSAppeal/F&S/2019/97-99

Dated: 25-06-2020

APPEAL NO. 23/2019

In the matter of :

M/s Mangal Fair Price Shop

FPS No. 5266, Circle-16, Tri Nagar, Delhi

Sh Tara Chand Alwala

----- Appellant

V/s

The Assistant Commissioner (North)

Deptt. of Food Supplies & Consumer Affairs,

Delhi.

----- Respondent

<u>ORDER</u>

The instant appeal has been filed by Sh. Tara Chand Alwala, Prop./Appellant, FPS No. 5266, Circle-16 (Tri Nagar) under Clause 6 of Delhi Specified Articles (Regulation of Distribution) Order, 1981 and PDS Order, 2001 against the Cancellation Order No. F.AC/N/F&S/FPS-5266/2018/2807-2812 dated 16.10.18 passed by Assistant Commissioner (North), Respondent.

The case was called and both the parties were heard.

The Appellant submitted that the Order of cancellation of license of FPS of Appellant is arbitrary, illegal and bad in the eyes of law. The Appellant has been running the FPS since 1978. The FPS is catering 965 card holder from his shop and has been distributing food grains without complaint. The FPS owner has no role in making of ration cards. The data and details of the beneficiaries are maintained by Department. The Appellant submitted that the OTP were sent on the registered mobile number of card holders. The Assistant Commissioner (North) before issuing the Cancellation Order did not consider the reply sent by the Appellant in which it has been clearly mentioned that articles have been distributed only after receipt of OTPs on the registered mobile number of the customers and the articles can be issued only after feeding the OTP in the machine.

The Respondent, Assistant Commissioner (North) submitted that 29 card holders not having availed ration for the month of January and February, 2018 but having availed for the month of March, 2018 through OTP mode on e-POS was provided by the IT Branch of the Department in respect of FPS No. 5266. FPS holder distributed SFAs to these 29 card holders directly using OTP mode without

attempting fingerprint and Iris authentication. During the door to door survey of 29 card holders (all of PR category), it was revealed that, 09 card holders were not residing at their addresses and 20 were not traceable. Thus, SFAs to the tune of **7.40 Qtl (Wheat-05.92 Qtl and Rice-1.48 Qtl)** were diverted by the Licensee. The Licensee has distributed SFAs (Specified Food Articles) against the entitlements of these 29 card holders through generating OTP on invalid mobile numbers. The Respondent contended that the appellant failed to follow the due procedure for conducting transactions on e-PoS. The Appellant bypassed the first two biometric methods of transaction and directly resorted to the third method of OTP to extend undue benefit to non-existent beneficiaries.

During the proceedings of the case, report was sought from SSA (IT) on use of biometric authentication in respect of 29 transactions under question. Regarding this it was informed by SSA (IT) that:-

- (i) After 29 transactions biometric authentication (Iris) is attempted in only one ration card No. 077005143587. All other ration card holders were distributed SFA through OTP without trying biometric authentication methods.
- (ii) All 29 card holders in question had not availed ration in January and February, 2018, i.e. after implementation of ePOS and prior to the introduction of OTP method.
- (iii) The OTP transactions were made on registered mobile numbers only. Assistant Commissioner (North) informed that all 29 ration cards have been cancelled

Upon considering the submissions of both the parties and going through the records placed before me, it is observed as per laid down procedure, the FPS licensee should have first attempted fingerprints, upon failure of fingerprints, Iris scan and only upon failure of the aforesaid two methods, OTP should have been attempted, as a matter of last resort. It is observed that the Appellant did not follow the laid down procedure mentioned for operation of e-PoS machines in 28 out of 29 ration card holders which casts doubt over the genuineness of transactions made by the Appellant. This is corroborated by the door to door survey report of the said 29 card holders, 9 of whom were not found residing at the given addresses and whereabouts of 20 other card holders were non-traceable.

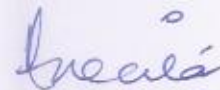
Biometric authentication is aimed at ascertaining the physical presence and existence of the beneficiary so that no drawl of ration is made against beneficiaries who are not existing/residing. Its use was of particular significance in the above case as the 29 cardholders in question did not lift ration in the month of January & February, 2018 after the implementation of e-POS system. Absence of card holders for 2 month consecutively should have raised reasonable doubt in the mind of the FPS holder and therefore, he should have ensured biometric authentication of the beneficiaries which he failed to do resulting in violation of established procedures and consequently irregular drawl of rations.

In this case given the circumstantial evidence, the contention of the Appellant that OTPs were sent on registered mobile numbers of card holders is not sufficient to establish the genuineness of the transactions and delivery of ration to the rightful beneficiaries. While the Appellant has used the biometric authentication for other card holders attached to the FPS, it is not understood as to why the biometric authentication was not resorted to in case of 29 card holders in question. On the basis of preponderance of probability it cannot be ruled out that the established procedure was bypassed with an intention to undertake irregular drawl of ration against non existing /non residing beneficiaries.

Therefore, I do not see any reason to modify or set aside the Order passed by the Licensing Authority in the matter.

The Appeal is accordingly disposed of.

Parties be informed accordingly.


25/06/2020

(ANKITA MISHRA BUNDELA)

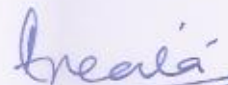
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/COMM./AA/FPSAppeal/F&S/2019/97-99

Dated: 25-06-2020

Copy to :-

1. The Assistant Commissioner (North), F&S Department GNCT of Delhi
2. Sh. Tara Chand Alwala Proprietor of M/s Mangal Fair Price Shop (FPS No. 5266) through Assistant Commissioner (North).
3. Sh. Narendra Kalra, Advocate, 265, Lawyers' Chambers, Delhi High Court, New Delhi-110003


25/06/2020

(ANKITA MISHRA BUNDELA)

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