

**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/ 1869-72

Dated:

APPEAL NO. 24/2019

In the matter of:

M/s. Ashok Kumar

FPS No.7572, Circle -40(New Delhi)

Sh. Mukesh Aggarwal

V/s

Appellant

The Assistant Commissioner (New Delhi)

Deptt. of Food Supplies & Consumer Affairs,

Delhi.

Respondent

ORDER

Whereas, the license/authorization of M/s Ashok Kumar, FPS No.7572, Circle-40 (New Delhi) issued in the name of Mr. Mukesh Aggarwal, was cancelled vide Order dated 15.03.2019 passed by the Respondent in view of the following irregularities/discrepancies reported during surprise visit of Enforcement Crack Team comprising FSO, C-01 & 07 and FSI, C-64 conducted on 30.01.2019:-

1. FPS was found closed.
2. Mandatory vigilance board was not displayed.
3. The license of FPS had expired on 08/10/2018 and not renewed after that.
4. Net variation of 15.53 Qtls of SFAs (Wheat- 9.83 Qtl. short, Rice- 5.68 Qtl excess and Sugar- 0.02 Qtl. excess) found.

And whereas, the Proprietor of FPS, Mr. Mukesh Aggarwal has filed the present appeal dated 27.03.2019 under Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the Cancellation Order dated 15.03.2019 passed by the Respondent.

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

The Appellant submitted the following:

- (i) The FPS was closed because he (the FPS owner) when coming back after lunch break was caught in a traffic jam due to accident on the way and was therefore late.
- (ii) The mandatory board regarding Vigilance Committees was not displayed because due to constitution of new Vigilance Committee the board was given for updating the name to the painter.
- (iii) As regards renewal of license of the Fair Price Shop, the application for renewal of the License had been submitted in time and the approval was awaited on the day of inspection. The license has been renewed for the period 09.10.2018 to 08.10.2021.
- (iv) Contesting the quantity of variation of SFAs calculated by the Enforcement Team the Appellant submitted that the bags of wheat and rice received from the godown were unloaded/stored by the labour of DSCSC in a scattered manner as a result proper counting of the bags could not be ascertained by the crack team. The bags of rice were counted in excess and the bags of wheat were counted less. However, at the time of opening of the sale by the Circle FSO the next day the stock was tallied. The complete stock of SFAs as per release order have been rightly received in the FPS. The Appellant stated that no violation of the provisions of Delhi Specified Articles (Regulation and Distribution) Order, 1981 has occurred on the part of the FPS owner.

The Respondent submitted that:

- (i) The irregularity regarding variation in the quantity of Specified Food Articles found during the inspection by Enforcement Team to the extent of shortage of 9.83 Qtls of wheat and excess of 5.68 Qtls of rice and 0.02 Qtls of sugar is serious in nature and violated the Delhi Specified Articles (Regulation and Distribution) Order, 1981 therefore as per rules in place, Cancellation order was issued after following due process.
- (ii) While issuing the Order dated: 15.03.2019 full facts as given in the inspection report and as presented by the Licensee were considered. Ample opportunity was given to the Licensee to present his case.

After hearing contentions of both parties, examining their written submissions and perusing other relevant records placed before me, it is noted that:-

Variation in the quantity of SFAs to the tune of 15.53 quintals including shortage of 9.83 Qtls of wheat and excess of 5.68 Qtls of rice and 0.02 Qtls of sugar is strongly indicative of mismanagement of SFAs on the part of FPS holder/Appellant.

The Stock Variation Statement prepared by the Enforcement Team is detailed and self explanatory. The Appellant's contention that variation was wrongly calculated is not supported by any credible/tangible argument/evidence.

The Appellant is heavily relying on the contention that the stocks were found in order the next day during opening of sale by the FSO. This cannot be accepted given the time gap between the conduct of inspection and the opening of sale and also given the fact that the FPS was not sealed after conduct of the inspection.

The evidence on record regarding variation of large quantity of SFAs is ample proof of mismanagement of FPS by the FPS owner which is serious in nature and grave violation of Delhi Specified Articles (Regulation and Distribution) Order, 1981. Accordingly, the Cancellation Order dated 15.03.2019 passed by the Respondent/Assistant Commissioner (New Delhi) is hereby upheld and the appeal is accordingly disposed off.

Parties be informed accordingly.

Ankita
28/01/2020

(ANKITA MISHRA BUNDELA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/COMM./AA/FPS Appeal/F&S/2019/ 1869-72

Dated: 28.01.2020

Copy to :-

1. The Assistant Commissioner (New Delhi), F&S Deptt., GNCT of Delhi.
2. M/s. Ashok Kumar, FPS No.7572, Circle-40, New Delhi through AC (New Delhi).
3. Sh. Mukesh Aggarwal, Proprietor of M/s Ashok Kumar, FPS No. 7572, R/o 118/8, Gautam Nagar, New Delhi-49.
4. Sh. K K Goswami, Advocate, Chamber no.-E-520, Karkardooma Court, Delhi-32.

Ankita
28/01/2020

(ANKITA MISHRA BUNDELA)

COMMISSIONER (F&S)/APPELLATE AUTHORITY