

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/ 1781-83

Dated: 31.12.2019

APPEAL NO. 29/2019

In the matter of:

M/s. Radhey Shyam,
FPS No. 6636, Circle -48 (Ambedkar Nagar)
B-260, Block-B, Tigri Extn. New Delhi.
Shri Raj Kumar

----- Appellant
V/s

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

----- Respondent

ORDER

The instant Appeal has been filed by the Appellant under Clause 6 of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against Cancellation Order dated 22.04.2019 passed by the Assistant Commissioner (South) in view of the following discrepancies found by Inspection Team comprising Special Commissioner (South), FSO and FSI of Circle-48 during inspection conducted on 08.02.2019 :-

1. FPS was found closed at the time of visit.
2. No mandatory boards were found displayed.
3. On the basis of actual and book stock the variation of 48 Kg. of Wheat and 12 Kg. of Rice found short.
4. 100 Kg. of Sugar found illegally in FPS premises.
5. 40 Kg. Atta found illegally in FPS premises.

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

During the course of hearing, Counsel for the Appellant submitted that the appellant/proprietor got late in opening the FPS due to sudden sickness on the day of inspection. Secondly, the boards were kept aside to enable proper cleaning of the shop. Further, it was argued that the Inspecting Team accompanying Special Commissioner (South) has not taken in record the provision of shortage of food grains permissible as per Departmental order No. F.3(40)/2013/F&S/P&C/173-181 dated 07/03/2018. In this regard, it was contended that by the end of date 08/02/2019, SFAs to the tune of 62.64 Qtls of wheat and 15.66 Qtls of Rice had been distributed among the cardholders, and during the distribution process 31 Kg of wheat and rice about 7 Kg had become short, which should be allowed as per Departmental Order dt. 07/03/2018 while calculating variation of stock. Considering the shortage, the cumulative variation of stock is only 22 Kg. As regards availability of 100 Kg Sugar and 40 Kg Atta in the shop at the time of inspection, it was submitted that on 09/02/2019 a Bhandara was to be organised in the market and in order to donate, the same was purchased by the appellant from the local market and it was kept in the FPS premises as it was received late in night.

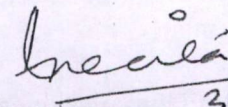
The Respondent contended that the Inspecting team has followed the rules & regulation in conducting the inspection of FPS and as per the rules and regulation the FPS holder cannot keep Atta and Sugar in the FPS premises. Furthermore, the FPS holder had not given any information/intimation to the FSO concerned in this regard. The Order dated 22/04/2019 was issued after following due process and giving sufficient opportunity of hearing to the FPS holder.

After hearing contentions of both parties, examining their written submissions and perusing other relevant records placed before me, it is noted that as per Departmental Order dated 07/03/2018, certain shortages on account of retail sale of SFAs is allowed at the time of stock taking during inspection. Accordingly, shortage of 31 Kg of Wheat and 7 Kg of Rice should have been allowed by the Inspection Team while preparing the Stock Variation Statement. After considering the claimed shortage, it is noted that the variation of remaining quantity would be 17 Kg of Wheat and 5 Kg of Rice (i.e. 22 Kg of 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. Therefore, Cancellation of the license vide Order dated 22/04/2019 appears to be disproportionate and stringent considering the nature of deficiencies found during the inspection.

Accordingly, the Order of AC (South) dated 22/04/2019 is set aside and the license/authorization of FPS No. 6636 is restored. However, in view of the deficiencies found during the inspection, a penalty of Rs. 10,000/- is imposed on the FPS Licensee. The licensee is also warned to be careful in future and not to keep any non permitted items/articles within FPS premises and strictly adhere to the rules and regulations pertaining to operation of FPS.

Parties be informed accordingly.


21/12/19
(ANKITA MISHRA BUNDELA)

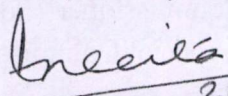
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/COMM./AA/FPS Appeal/F&S/2019/ 1781-82

Dated: 31.12.19

Copy to :-

1. The Assistant Commissioner (South), F&S Deptt., GNCT of Delhi.
2. M/s. Radhey Shyam, FPS No. 6636, C-48 through AC (South).
3. Sh. Raj Kumar, Prop. of M/s. Radhey Shyam, FPS No. 6636, C-48, B-260, Block-B Tigri Extn., New Delhi.


21/12/19
(ANKITA MISHRA BUNDELA)

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