

L.

BEFORE THE APPELLATE AUTHORITY/SPECIAL COMMISSIONER
DEPARTMENT OF FOOD SUPPLIES & CONSUMER AFFAIRS
GOVERNMENT OF NCT OF DELHI
K Block, Room No. 108, 1st Floor, Vikas Bhawan I.P. Estate New Delhi-11002.

No.SPL.COMM./AA/FPS Appeal/F&S/2023 | 82-86

Dated: 04.07.23

Appeal No. 138/2016
Review Appeal No 07/2022

In the matter of:

M/s Ram Ji Dass,
FPS No. 1915, Circle-29
Tilak Nagar, Delhi

Sh. Sat Prakash

Versus

Appellant

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

Respondent

ORDER

The instant review appeal has been filed by the appellant under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the cancellation orders dated 24.06.2016 passed by the respondent.

For Appellant Sh. Amit, Proprieter's son was present with authorization letter on the behalf of the Proprieter.

For Assistant Commissioner (West), Ms. Sushila AC (West), Sh. Sunil Gaur, FSO, Respondent were present.

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

1. Brief facts of the case are as under:-

That on the basis of door to door verification of 475 card holders conducted by the concerned officials vide order dated 13.10.2015, the allegation of diversion of SFA amounting to 19.85 Qtl. (15.88 Qtl of Wheat and 3.97 Qtl. Of Rice) was levelled against the appellant. Thereafter, a suspension cum show cause notice dated 06.01.2016 was issued against the appellant by the respondent and the FPS of the appellant was suspended with immediate effect and subsequently cancelled the authorisation.

Thereafter, the proprietor filed an Appeal against the cancellation order dated 24.06.2016 of AC (West).

504/SSA/JT
12/07/23

4/7/23

SAC (MKS) Mukul
19/7/2023
Sh. Madan Lal (DBO)
12/7/23

2. The appellant submitted and argued as under:-

- a. That I have filed an appeal before the Appellate Authority against the suspension cum show case notice dated 06.01.2016 along with the available relevant records/documents. I have appeared before the Appellate Authority during Personal Hearings allowed in the matter on various dates and explained my position in this regard.
The Appellate Authority has rejected our Appeal with the reasons.
 1. That I have not filed any documentary proof/any other proof to claim my defense or to prove that this is not the variation.
 2. That as per e-POS device I used to distribute commodities separately i.e. Wheat, Rice, Sugar etc. & List of Card holders were provided to me who denied the issuance of SFAs.
- b. I would like to request your good self to kindly reconsider my Appeal and also allow me personal hearing to explain the matter in detail. As I have already submitted that all these allegations are false, frivolous and baseless, as notice does not indicate any specific period/month of the alleged diversion of ration items.
- c. Secondly neither any detailed list of card holders those who has reported non receipt of specific SFA's i.e. Wheat, Rice & Sugar is attached with this Notice nor any "Stock taking" etc. of the ration material was conducted at my shop. This alleged diversion seems to be an afterthought. It is mandatory to provide this detail to the notice FPS holder in case of allegation of diversion of SFAs on the basis of door to door survey.
- d. In this regard, I would like to add that I was one of the first 42 FPS holders where this Biometric Machinery was installed a pilot project of F&S Department during April 2015. This project was launched for smooth and fair distribution of ration/SFAs to the genuine ration card holders. This machine maintains the total record of supplies made to the genuine card holders.
- e. As I have already submitted that I used to run this Fair Price shop professionally – in the business-like manner. Before installation of this machine I used to maintain total records of the receipt, issue/clearance of ration items in the prescribed manner i.e. Registers, slips etc. and no complaint of any ration card holders is pending against me. I am maintaining a clear and clean track of my shop in the area.
- f. I submit that no relevant documents were provided to me to prepare my reply/defense.
- g. I can to know that the Appellate Authority has allowed the appeals to other FPS holders in the similar matters and even to some of the FPS holders who don't have bio-matric machine/ e-POS device.


4/12/16

3. The respondent submitted and argued as under:-

- a. That on receipt of letter F.No. R-514 (Enf.)F&S/2015/1121-24 dated 12.10.2015 regarding the note of Secretary to Hon'ble Minister, F&S vide No. 2067 dated 29.09.2015 received through Spl. Commissioner (Enforcement), F&S Deptt. Sh. V.P. Kharbanda, FSI, C-31 and Sh. Sewa Ram, FSI, C-12 was deployed for door-to-door survey of 475 (PR cards) attached with FPS Lic. No. 1915, M/s Ramji Dass under Circle-29 (Tilak Nagar) along with representative of Area MLA and to be reported to Enforcement Branch through Assistant Commissioner (West). Accordingly, inspecting team conducted door-to-door verification of all food cards and reported a total diversion of 19.85 Qtls. (15.88 Qtls of Wheat and 3.97 Qtls of Rice.)
- b. So under the provision of Delhi specified articles (Regulation of distribution) order, 1981 the said FPS was suspended on 06.01.2016 by the licensing authority AC (West) in view of the variation submitted by the Inspecting Team, vide the same suspension cum show cause notice the licensee was given an opportunity to be appear before the licensing authority with all the supporting documents in his / her defense on 18.01.2016.
- c. The FPS holder appeared on the said date 18.01.2016 and submitted his reply to the licensing authority, the licensing authority heard the case in length and found the reply not convincing in lack of any supporting documents. Hence the license was cancelled by the then licensing authority.
- d. The Inspecting team in door to door survey in r/o 1915 M/s Ramji Dass situated at WZ-32 old Mahaveer Nagar clearly stated that out of 475 RC holders 153 PR card holders were not getting SFA due to the reason mentioned below:-
 1. No of households not getting SFA but found residing : 103
 2. Found Shifted : 30
 3. Found Locked : 07
 4. Incomplete address not verified : 12
 5. Expired : 01
 6. Total : 153
 7. No of household getting SFA as per their entitlement : 322
 8. Grand Total : 475
- e. The FPS holder filed an appeal vide appeal no. 96/2016 before the Appellate Authority against the suspension cum show cause notice dated 06.01.2016 and his appeal was rejected by the Appellate Authority vide order dated 31.03.2016 stating " The Licensing Authority has stated that the appellant was directed vide suspension cum SCN dt. 06.01.2016 issued by the Licensing Authority to appear before the Licensing Authority and defend his case but the appellant failed to do so. The appellant has not offered any explanation for the same also." And the order passed by the Assistant Commissioner (West) was upheld. While going through the suspension order it is noticed that the FPS holder was given opportunity of being heard through personal

4/1/23

appearance or through his authorized representative on 18.01.2016 at 11:00 AM but none appeared as per the record. Whereas this case was remanded back vide no. PS/FPS Appeal No. 138/F&S/2016/473-474 dated 16.02.2017 but no action was taken due to the reasons best known to then Assistant Commissioner (West) Licensing Authority.

- f. As the FPS holder was given an opportunity to defend his case but till date he has not submitted his reply with the documentary evidences, which shows that he has nothing to say in his defense, moreover the file regarding one man enquiry committee is not traceable in this office and after a gap of approx. 08 year it is not feasible to do door to door survey again, further as the proprietor has stated that he has distributed SFA through e-POS machine at that time, in this context details has been sought from IT Branch. Hence we may request the appellate authority to provide some more time in the matter till we get the report of IT Branch in the matter.

4. After hearing arguments of both the parties, examining their written submissions and perusing other relevant records placed before me, during appeal proceedings it has been noticed that there is an order dated 16.02.2023 already passed by previous appellate authority wherein the matter was remanded back to licensing authority for further necessary action. However, AC (West) submitted that no action has been taken till date on this order passed by Special Commissioner (F & S), the then appellate authority. Now the concerned AC is directed to comply with the previous order dated 16.02.2017. The applicant can approach AC (West) to take further necessary action in time bound manner.

The appeal is disposed of in the aforesaid terms.

Parties be informed accordingly.



(RAHUL SINGH)
SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.SPL.COMM./AA/FPS Appeal/F&S/2023 | 82-86

Dated: 04.07.23

Copy to:

1. The Assistant Commissioner (West), F&S Deptt., Govt. of NCT of Delhi, Delhi.
2. Sh. Sat Prakash, M/s Ram Ji Dass, FPS No. 1915, Circle-29 Tilak Nagar, Delhi through Assistant Commissioner (West)
3. M/s Ram Ji Dass, FPS No. 1915, Circle-29 Tilak Nagar, Delhi
4. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.
5. P.S. to Commissioner (F&S) for information.



(RAHUL SINGH)
SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY