

OFFICE OF THE SPECIAL COMMISSIONER/ APPELLATE AUTHORITY
DEPARTMENT OF FOOD SUPPLIES AND CONSUMERS AFFAIRS
(GOVT. OF NCT OF DELHI)
K-BLOCK, VIKAS BHAWAN, I.P. ESTATE, NEW DELHI-110002

No.Spl.Comm./AA/FPS Appeal/F&S/2023/702-706

Dated: 16/08/2023

Appeal No. 12/2022

In the matter of:

M/s Pramod Provision Store,
FPS No. 6524, Circle-33, Dwarka,
New Delhi

Versus

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

..... Appellant

..... Respondent

Date of hearing:- 03.08.2023

ORDER

The instant Appeal has been filed by Mr. Pramod Gupta, Proprietor of M/s. Pramod Provision Store, FPS No. 6524, C-33 (Dwarka) under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the Cancellation Order No AC(S)/F&S/2008/877-82 dated 12.05.2008 passed by Assistant Commissioner (South)/Licensing Authority.

Shri Pramod Gupta, Appellant/Proprietor and Yogesh Kumar, AR were present.

Smt Vinod Kumar, Assistant Commissioner (South)/Respondent was present.

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

Brief facts of the case are as under:-

The authorization for running the PDS outlet i.e. FPS 6524 in question was issued in the name and style of M/s Pramod Provision Store at H-183, Tigri Colony, J J Colony, New Delhi on terms & conditions of authorization letter and as per Delhi Specified Articles (Regulation of Distribution) Order, 1981 and direction issued thereunder from time to time.

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On 03.03.2008 Sh Kamaljeet Singh Talwar the then FSO, C-33(Dwarka) informed AC/the then Licensing Authority that Sh Pramod Kumar Gupta, Proprietor of FPS no 6524 along with his son Sh Avdesh Gupta entered his room and misbehaved/abused and slapped him in presence of his office IT Assistant. Accordingly on complaint of FSO an FIR (no 213/08 dt. 03.03.2008 U/s 186/353/323/34 IPC) was lodged at PS Malviya Nagar against the accused persons/ the proprietor for obstructing, assaulting and hurting the FSO while in office and discharging his official duties.

The Licensing Authority i.e. AC(South) after taking all the facts into consideration found that FPS holder behaved in a manner totally unbecoming of a FPS holder hence suspended the FPS on 5.3.2008 and by conducting subsequent proceedings cancelled it on 12.5.2008.

The present appeal has been filed to review the order dt 12.05.2008 vide which the FPS was cancelled. Appellant also filed writ petition no 6412/2023 before Hon'ble High Court, Delhi with the only grievance that its appeal pending before Appellant Authority is not being heard. Considering the same, Hon'ble court vide order dt 24.05.2023 disposed off the petition with the direction to decide the appeal within 3 months in accordance with law.

The appellant submitted and argued as under:-

The impugned cancellation order dt 12.05.2008 passed by the respondent is illegal, arbitrary, without application of mind and non-maintainable as the respondent had no locus-standi to pass suspension and cancellation order merely considering the FIR in question as ground and treating the same as violation/contravention of the authorization and provisions of Delhi Specified Articles (Regulation of Distribution) order 1981. No violation/contravention of the terms and conditions of the authorization on the part of the appellant except registration of false and motivated case FIR no 213 dt 03.03.2008 to suppress his voice as he opposed the corrupt practices of the then FSO regarding distribution of large number of BPL and AAY cards to some FPS holders of the area against the policy of Government in which also he has been acquitted by MM court of Saket in the said case but copy of court order is not traceable.

The FPS was the only source of income for the appellant and he was running the FPS as per relevant provision of the law and guidelines of the department since 18.02.1984. He also was not medically fit during the intervening period and no financial support from his sons therefore filed the present application belatedly after availing proper legal advice hence also plead condonation for delay.

During proceedings the appellant submitted the application for modification in averments stating that in the case FIR no 213/08 the accused were not acquitted but case was settled in plea-bargain hence requested to read the submissions as averted. The AR of appellant also provided the copy of MM court order mentioning that the case was decided from plea-bargaining in the court wherein the accused moved the application voluntarily and parties worked out the mutual satisfactory disposition. The statements of both the accused



also enclosed wherein both the accused voluntarily pleaded guilty for commission of the offense.

The Assistant Commissioner (South), Respondent submitted and argued as under:-

The licensee has behaved in a manner totally unbecoming of a FPS holder by misbehaving/abusing and slapping the then FSO in the circle office while on official duty which is a very serious matter and as such the FPS in question was cancelled by the then licensing authority with full application of mind and after considering all the facts, providing the opportunity of being heard to the appellant, confirming all the facts of incident by cross examining the same from eye witness i.e. Ms Meenakshi, Computer Assistant.

The licensee has filed the appeal after a lapse of almost 14 years of cancellation of his license. The ration card have since then been attached to some other FPSs. Misbehaving with the Government Employee while performing his duties warrants no exemption hence requested not to consider the appellant's request.

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

The objection of the appellant regarding suspension and cancellation of FPS on the basis of FIR only is not acceptable as Licensing Authority is empowered by the act to take action as deemed fit on basis of situation and full application of mind and considering all the facts and documents presented. The appellant himself voluntarily pleaded guilty before the Hon'ble court via plea bargain in the MM court for his act of abusing/misbehaving and slapping the then FSO in case FIR no 213/08 consequently deciding the case. Furthermore, the appellant also verbally accepted and felt sorry for his act during the proceedings before undersigned. There is no scope of speculation just by casting aspersion against anybody hence the contention of appellant regarding false and implication through FIR is not factual so same can not be considered.

Furthermore, the Appeal has been filed after a very long gap of almost fourteen years, which is already time barred as per provisions contained in the Department's order dated 12.01.1981. The version of appellant regarding non availability of legal advice is untenable as it is expected from the FPS holder that he would act as per terms and conditions laid down in the Act and various orders issued by the Department from time to time.

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Therefore, considering the above facts, I do not find any merit in the appeal hence, the Order dated 12.05.2008 of Assistant Commissioner (South) is upheld and the appeal is accordingly dismissed. Further, the Appellant is at liberty to file appeal to the next higher authority i.e. Financial Commissioner, Govt. of NCT of Delhi against the above mentioned orders if he desires so.

The appeal is disposed of in the aforesaid terms.

Parties be informed accordingly.


(SUSHIL SINGH)

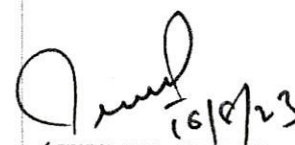
SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.Spl.Comm./AA/FPS Appeal/F&S/2023/702-706

Dated: 16/8/2023

Copy to:-

1. The Asstt. Commissioner (South), F&S Department, GNCT of Delhi.
2. Mr. Pramod Gupta, Prop. M/s Pramod Provision Store (FPS-6524), Circle-33, through Assistant Commissioner (South).
3. Mr. Pramod Kumar Gupta, Prop. M/s Pramod Provision Store (FPS-6524) R/o B-109, Tigri Extension, New Delhi-110009.
4. Sh. Yogesh Kumar, Advocate, Chamber No. 637, Dwarka Court Complex, Sector-10, New Delhi-110075.
5. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.


(SUSHIL SINGH)

SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY