

OFFICE OF THE SPECIAL COMMISSIONER/ APPELLATE AUTHORITY  
DEPARTMENT OF FOOD SUPPLIES AND CONSUMERS AFFAIRS  
GOVT. OF NCT OF DELHI  
ROOM No. 110, 1<sup>st</sup> FLOOR, K-BLOCK, VIKAS BHAWAN, I.P. ESTATE,  
NEW DELHI-110002

No. SPL.COMM/AA/FPS Appeal/F&S/2022/1083-88

Dated: 18/10/22

Appeal No. 25/2018

In the matter of:

M/s Yadav Ration Shop,  
FPS No. 7361, Circle-36,  
Bijwasan, Delhi

Shri Yashpal (Partner)

Appellant

Versus

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

Respondent

DATE OF HEARING 29.09.2022

**ORDER**

The order shall dispose of the appeal filed by Sh. Yashpal, Partner M/s. Yadav Ration Store, FPS No. 7361, Circle -36 under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the Cancellation Order No. F.SCN/9057/C-37/AC(SW)/F&S/945 dated 26.09.2018 passed by Assistant Commissioner (South - West) and in compliance of the order of Hon'ble High Court dated: 11.07.2022 in Writ Petition (C) 5459/2022, notice of hearing for 29.09.2022 at 12.30 P.M. was issued to Shri Yashpal (Appellant).

Shri Shailender, Authorised Representative of the appellant and Shri Naveen Mediratta, Assistant Commissioner (South - West)/ Respondent were present.

The Case was called and heard at length.

The Appellant submitted that he has been authorised by the Department to distribute Specified Food Articles to the eligible beneficiaries. Vide Suspension cum Show Cause Notice dated 04.07.2018 he was directed to produce 25 NFS card holders who were not found residing at their given address. The appellant also filed his reply to the notice issued to him, however, the respondent cancelled the authorisation vide impugned cancellation order dated 26.09.2018 alongwith forfeiture of entire security amount citing the reason that the appellant could not produce 25 card holders in question. He submitted that the Cancellation Order is arbitrary, illegal and without application of mind.

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He further stated that after coming into force of National Food Security Act, 2013 the food cards have been re-issued to the eligible beneficiaries of Delhi in lieu of Old Cards by the Department after comprehensive verification of each and every beneficiary. Their details e.g. name, parentage and addresses etc. have been duly verified by the concerned officials of the Department and in this exercise and FPS holder has not any role. He submitted that an FPS Holder is duty bound to distribute SFAs' to the beneficiaries/ card holder on production of Food Security Cards. Till March/April 2018, the SFAs' were being distributed through e-POS device according to which biometric authentication / OTP on registered mobile number of the beneficiary was required for issuing of SFAs.

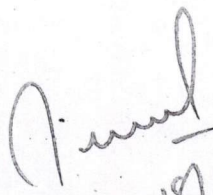
The main charge levelled against him that he could not produce 25 card holders who were not found residing at the given address. In this regard, it has been submitted by appellant that if any card holder/NFS beneficiary is not found residing/available/traceable at his / her given address, the appellant is not liable for the same. In the present scenario no instruction was communicated to the application for not distributing SFAs' to such card holders in question. He submitted that as per departmental circular and norms an FPS is to be cancelled only when the variation in stock of food grains found to the tune of more than 100kg and such variation is to be noticed at the time physical verification food stock, but in the present case no physical verification of FPS of the appellant was carried out because there was no irregularity against the appellant and there is no charge pertaining to variation in stock against the appellant. He further quoted various Orders in this regards issued by different authorities. The appellant pleaded that the FPS is only source of income for him.

The Authorised Representative filed a written submission and submitted that since the cards are still active and drawing ration from the FPSs so it is requested to remand back the case for re-verification and another opportunity of hearing may be offered by the Licensing Authority in the interest of natural justice.

As per comments dated 04.12.2018 received from Assistant Commissioner (SW) the Department had introduced e-POS system at all FPSs' in Delhi to distribute the SFAs' in the month of January, 2018. During the course of functioning of e-POS, Department also started OTP service (in which one time password comes on the registered mobile number of beneficiary) w.e.f. 01.03.2018 to facilitate the beneficiaries, who deprived of getting their entitled quantity of SFAs' due to non authentication of thumb/finger impressions in e-POS machine. After some time, Department stopped the OTP service on 17.03.2018 and all the Assistant Commissioners were directed to conduct door to door survey of OTP cases to verify the genuineness of these Card holders.

On receipt of the list from IT Branch (HQ) through e-mail, door to door survey of NFS cards in respect of OTP cases was conducted and it has been found 25 NFS card holder attached with the aforesaid FPS were not found residing at their given address which reflects the suspected diversion of their entitled quantity of SFAs by the FPS holder. A Suspension – Cum – Show Cause notice dated 04.07.2018, was issued to the FPS holder with the direction to produce the following 25 NFS card holders in question before the Licensing Authority. Ample opportunities were provided to the FPS holder vide notices dated 07.07.2018, 18.07.2018, and 15.09.2018 to produce the NFS Card holders before the Licensing Authority but none have been produced. Reply filed by the FPS holder was also not acceded.

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On the basis of facts and circumstances of the case there is every reason to believe that the licensee has not followed the provisions of Delhi Specified Articles (Regulation of Distribution Order, 1981 and violated terms and conditions of the license issued to him. Accordingly, the authorisation of FPS was cancelled vide Order dated 26.09.2018 and entire security amount of Rs.10,000/- was forfeited to the state.

The Assistant Commissioner (SW) vide letter No.F.SCN/7361/C-36/AC(SW)/F&S/1052 dated 28.09.2022 also filed the present latest report of the Cards in question.

I have gone through the record placed before me and after hearing contentions of both the parties, examining their written submissions and perusing other relevant records, it is observed that even though there is no role of FPS licensee as regards to issuance of ration card to the concerned beneficiaries, but as per order dated 02.01.2009, the concerned FPS holder was supposed to intimate the Department regarding availability of ration card holder/shifting of address/death etc., so that the relevant data may be updated by the concerned Circle Office. Since, the cardholders were attached with the FPS of the appellant (as per report of IT Branch), therefore, the FPS licensee should have been more circumspect before issuing SFAs in ascertaining their authenticity by way of first going through bio-metrics, upon failure of biometrics, through IRIS and upon failure of the aforesaid two methods, then through OTP, as directed by the Department. As per report received from IT Branch the Appellant in all the cases did not follow the due procedure (in 04 cases finger attempted and in 01 case finger and IRIS both attempted) mentioned above which clearly casts doubt over the genuineness of transaction and integrity of the Licensee. This fact has again been revealed in the door to door survey report in which the FSO submitted that the NFS beneficiary in question are not found residing at the given address.

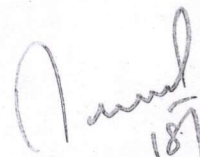
Furthermore, the functioning timing of the FPS is from 9.00 A.M. to 1.00 P.M. and from 3.00 P.M. to 7.00 P.M. but it was found that the FPS was found functioning at odd hours beyond the time slot allotted to the FPS as it was noticed from the report of IT Branch of the Department that the SFAs of card holders were distributed during odd/non working hours of the FPS (First entry being at 13.23 P.M. and last being at 22.58 P.M.) which is totally violation on the part of the Licensee.

Further, it is also clear from the status report submitted by the Assistant Commissioner (SW) that the cards are still active but the beneficiaries are not lifting ration for last one year except three card holders. This fact also casts doubt over the genuineness of transactions.

In view of the above, the averments of the Appellant are devoid of any merit. The decision of the respondent for cancellation of authorisation vide Order dated 26.09.2018 is justified and no interference of the Appellate Authority in respect of the impugned order is called for. Hence, the order passed by the Licensing Authority is upheld and the appeal petition is rejected. I order accordingly.

The appeal is disposed off.

Parties be informed accordingly.

  
18/10/22  
(SUSHIL SINGH)

**SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY**

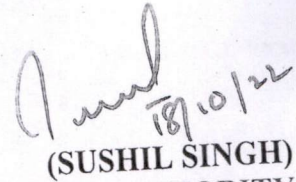


Dated: 18/10/2022

F.SPL.COMM./AA/FPS Appeal/F&S/2022/1083-88

Copy to :-

1. The Assistant Commissioner (South-West), F&S Deptt. GNCT of Delhi
2. Sh. Yashpal, M/s. Yadav Ration Store (FPS No. - 7361), C-36 through Asstt. Commissioner (South - West).
3. Shri Yashpal, M/s. Yadav Ration Store (FPS No. - 7361), 156, Rao Chaturbhuj Marg, New Delhi - 110037.
4. Shri Shailendra, AR, R/o 3243, School Street, Pahar Ganj, New Delhi - 110055 for information.
5. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.
6. PS to CFS for information p/s.

  
18/10/22

(SUSHIL SINGH)

SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY