

BEFORE THE APPELLATE AUTHORITY/SPECIAL COMMISSIONER (Admn)
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

Dated: 29/3/2023

Appeal No. 144/2016
Review Appeal No. 17/2021
Review Appeal No. 32/2021

IN THE MATTER OF:-

M/s. Khandelwal Store,
FPS No. 6607, Circle-29, Delhi.

Shri Sat Narain

..... Appellant

Versus

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

.....Respondent

Date of Hearing 20.10.2022

ORDER

The instant Review Appeal has been filed by Shri Sat Narain, Prop. of M/s. Khandelwal Store, FPS No. 6607, Circle -29 under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the Cancellation Order dated 28.10.2016 & 25.10.2021 passed by the respondent.

Shri Vishnu Sharma, on behalf of appellant alongwith Shri Shailendra, Authorised Representative of appellant were present.

Smt Sushila, Assistant Commissioner (West)/Respondent was present.

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

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Brief facts of the case are as under:-

A letter dated 23.12.2015 of Secretary to Minister, F&S alongwith copy of complaint of Sh. Jarnail Singh, MLA, C-29 (Tilak Nagar) addressed to Commissioner Food and Supply was received in Enforcement Branch of this Department regarding door to door survey of food cards linked with FPS No. 6607, M/s Khandelwal Store. The Enforcement Branch vide Deployment order dated 30.12.2015 deputed a team to carry out door to door survey of all food cards linked with FPS No. 6607. On dated 09.05.2016, the inspection team furnished the door to door survey report to Enforcement Branch who after scrutiny on dated 31.05.2016 issued directions to FSO, C-29 to stop supply of SFAs where cards holders were not found residing at their given addresses, house tax payers of A to E Category of MCD, having electricity load more than 02 KW and address not traceable during door to door survey.

Further, Enforcement Branch reported a denial to the tune of 04.09 Qtls of Wheat, 01.06 Qtls of Rice and 0.24 Qtls of Sugar. As per DR-IV, V the licensee returned the SFA in the month of December, 2015 to the tune of 5.76 Qtls of Wheat, 1.44 Qts of Rice and 0.90 Qtls of Sugar. The licensee, thus had returned excess SFA to the tune of 1.67 Qtls of wheat, 0.38 Qtls of rice and 0.66 Qtls of Sugar in the month of December, 2015. Therefore, for further elucidation, the then AC/Licensing Authority (West) placed the FPS under Suspension vide Suspension-cum-Show-Cause-Notice dated 13.07.2016 followed by Cancellation Order dated 28.10.2016.

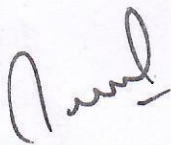
Aggrieved with the decision of Licensing Authority the Licensee of FPS filed an appeal before the Appellate Authority/Special Commissioner F&S. The Appellate authority remanded the case back to the licensing authority for verifying the facts regarding non drawl of SFA's by the NFS beneficiaries of FPS no. 6607 who were found residing at the time of door to door survey conducted for the month of December 2015 vide order dated 13/06/2019. Due the quick reshufflings in the portfolios of Assistant Commissioners from time to time the matter was delayed hence vide review appeal no 17/2021 appellant requested to decide the matter early hence vide order dated 31.08.2021 the Licensing Authority was directed to hear the matter and decide the case on merits within a period of two months.

In compliance of same the Assistant Commissioner (West)/Licensing Authority heard the matter afresh and after taking into consideration all the documents/facts & submissions of the petitioner continue the cancellation of FPS vide order dt 25.10.2021.

The appellant submitted and argued as under:-

That the licensing authority vide order dt 25.10.2021 upheld the cancellation of FPS in biased manner without going in details of records to the FPS.

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That the survey team considered that all the cardholder who were found residing at the time of door to door have collected their entitled SFAs but some of them have not collected the SFAs and FPS holder kept the same in the stock which he also submitted in DR-IV,V.

That the survey team calculated the SFAs in less in comparison of the entitlement of 58 cardholders who were not found residing at their addresses at the time of survey.

That the survey team did not check the record properly and miscalculated the closing balance of the FPS and the licensing authority passed the order without verifying the cardholders who denied the collection of ration during the survey.

The licensing authority submitted and argued as under:-

A call memo dated 18/9/2021 was issued to the FPS holder to appear before the AC(west) on 23/09/21 to make his submission. On 23/09/2021 Sh. Sat Naryan c/o M/s Khandelwal store FPS no. 6607 along with Authorized Representative Shri. Shailendra Kumar appeared before the Licensing Authority along with written reply and stated that all relevant documents have been enclosed with the reply and there is nothing else to submit regarding the case. Hence after taking into consideration all the documents/facts and submissions of the petitioner Licensing Authority continued the cancellation of FPS vide order dt 25.10.2021.

The team duly considered the entitled SFAs of 05 cardholders who were found residing but did not collected their ration as the closing balance of FPS hence the allegation of FPS holder is completely hypothetical.

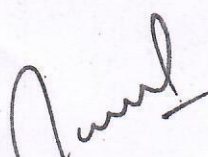
The team took in consideration all the records and facts and calculated the SFAs as closing balance of FPS only for the cardholders whose cash memos were not issued as per record out to 58 cardholders who were not found residing at their addresses at the time of survey.

The FPS holder is providing the list of cards along with other particulars who drawn/not drawn the SFAs in the month of December 2015 claiming to match the exact quantity of SFA which was returned by him in the DR-IV,V of December, 2015 just a afterthought produced after a lapse of 05 years.

After hearing contentions of both the parties, examining their written submissions and perusing other relevant records placed before me, it is noted that in compliance of Appellate Authority direction the licensing authority provided due opportunity of being heard to the appellant and continued the cancellation of FPS vide order dt 25.10.2021 after taking into consideration all the documents/facts and submissions of the petitioner.

The version of FPS holder regarding non consideration of SFAs of some of the cardholders is not acceptable as the closing balance of the FPS was calculated by the survey team after taking into consideration all the records of all cardholders and physical survey.

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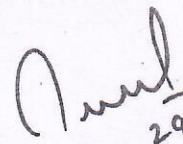


The submission of the FPS holder regarding miscalculation of closing balance of SFAs at the FPS is just a afterthought to match the exact quantity of SFA which was returned by him in the DR-IV,V of December, 2015.

Therefore, considering the above facts, I do not find any merit in the appeal hence, the Order dated 28.10.2016 & 25.10.221 passed by Assistant Commissioner (West) are 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.


29/3/2023
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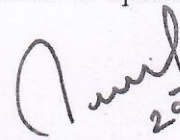
SPECIAL COMMISSIONER(F&S)/APPELLATE AUTHORITY

No.SPL.COMM./AA/FPS Appeal/F&S/2023/394-97

Dated: 05/04/2023

Copy to:

1. The Assistant Commissioner (West), F&S Deptt. GNCT of Delhi.
2. Shri Sat Narain, Prop., M/s. Khandelwal Store FPS No. - 6607), C-29 through Assistant Commissioner (West).
3. Shri Sat Narain, Prop. M/s. Khandelwal Store (FPS No. - 6607), R/o Site 1/508, Vikas Puri, Delhi - 10018.
- ✓ 4. SSA (IT), F&S Deptt., K-Block, Vikas 3hawan, Delhi with the direction to upload the order on Departmental website.


29/3/2023
(SUSHIL SINGH)

SPECIAL COMMISSIONER(F&S)/APPELLATE AUTHORITY