

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

F. No.SPL.COMM./AA/FPS Appeal/F&S/2024/505-509

Dated: 28/6/24

Appeal No. 24/2022

In the matter of:

M/s Mahakali Store
FPS no.7788, Circle-50,
T-5, Outer Road, Malviya Nagar,
New Delhi - 110017
Mr. Radhey Shyam (Prop.)

Appellant

Versus

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

Respondent

ORDER

Sh. Radhey Shyam, Prop. of M/s Mahakali Store (FPS No. 7788) Circle-50, filed an appeal dated 15.11.2022 under clause 6(6) Delhi Specified Articles (Regulation of Distribution) Order, 1981, against the Cancellation Order No.F.AC(ND)/F&S/FPS-7788/2018/425 dated 10.05.2018 passed by the Respondent i.e. Assistant Commissioner (New Delhi)/Licensing Authority.

Brief facts of the case:-

The FPS No. 7788 M/s Mahakali Store was suspended on 22.02.2018 by the Licensing Authority as the licensee absented himself from the authorized premises without approval of medical leave applied for a period of two months during the mandatory installation of E-pos machines at all the FPSs in NCT of Delhi. Later on an explanation in the matter was called from Licensee vide notices dated 02.05.2018, 02.04.2018 and 10.04.2018 but no reply was submitted/received to the department. Ultimately, then Asst. Commissioner (New Delhi)/Licensing Authority cancelled the License of FPS No. 7788 vide an order dated 10.05.2018.

The appellant submitted and argued as under:-

That he had applied for a medical leave on 18.12.2017 for a period of two months (10.12.2017 to 10.02.2018) as it was unable for him to run the FPS being medically unfit. The Licensing Authority had issued an impugned cancellation order dated 10.05.2018 with the reason that ample opportunities have been given to the appellant. The appellant was very seriously ill and staying with his parents' house in sector-3, Faridabad and was not in the position to attend the office of the respondent. As per the memory of the appellant he never received any notice or notices as

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stated in the impugned cancellation order dated 10.05.2018. The shop and residence of the appellant was also closed in that relevant period.

It was also submitted that there is no charge of black marketing or hoarding against the appellant in the impugned cancellation order. Now the appellant is fit to run the FPS smoothly as per the norms of the Department. Moreover, the FPS is the only source of income for him and his family. Therefore, it is requested to revoke the impugned cancellation order dated 10.05.2018 and give an opportunity to the appellant for operating the said FPS again.

The Respondent submitted that

The FPS Holder applied leave for a period from 10.12.2017 to 10.02.2018 on medical ground at a crucial time when the department was in the process of installing mandatory E-pos machines at all FPSs throughout Delhi. The appellant absented from the premises/FPS, and the NFS cards attached with FPS No. 7788 had to be linked with the nearby FPSs for smooth distribution of SFAs to the beneficiaries.

Thereafter a Show Cause notice dated 02.02.2018 was issued to the FPS holder but no response was registered from the appellant. Further, the said FPS License was suspended vide order dated 22.02.2018 by the then AC (New Delhi)/L.A. The Order regarding suspension of said FPS License was issued after the requested leave period as sought by the FPS Holder was over. Further, few more notice dated 02.04.2018, 10.04.2018, & 02.05.2018 were issued but FPS holder did not appear nor any submission was received from him. Later on the FPS license was cancelled on 10.05.2018.

In view of the misconduct of the appellant, it is prayed that the appeal may be dismissed.

Conclusion:-

The appeal case is taken up and the hearing fixed for 09.11.2023. The respondent submitted Para-wise comments on the appeal no.24/2022 dated 03.10.2023, the copy of the comments were supplied to the appellant during proceeding on 05.10.2023. During appeal proceedings the appellant along with AR was heard at length. The case was again heard on 09.11.2023; the appellant along with AR was present but did not submit any fresh reply on the respondent's comments supplied to them.

After hearing contention of both the parties, examining their written /verbal submission and perusing other relevant records placed before me, it is noted that the FPS holder/appellant submitted an application for medical leave for two months from 10.12.2017 to 10.02.2018 which was not approved by the Licensing Authority as a mandatory Epos installation exercise was being carried out by the department during this period. For this unauthorized absence of the appellant from the FPS, a show cause notice on 02.02.2018, and later on non submission of any reply the FPS was suspended on 22.02.2018, which is after crossing the requested period of leave submitted by the appellant.

On completion of the leave period, the licensing authority provided ample opportunities of being heard on 22.02.18, 02.04.2018, 10.04.2018 and 02.05.2018 to the appellant for seeking reason behind his unauthorized absence but the appellant did not pay any heed to the notices sent to him.

The licensing authority then cancelled the authorization on 10.05.2018 as per the departmental procedure.


The appellant failed to bring any cogent arguments and any other substantial documents during the appeal proceeding in support of his submission/ arguments but merely contended reason for his misconduct of his bad health at that time.

The appellant behavior at the crucial time of transformation of departments in terms of providing technological advancement to enhance experience to the NFS beneficiaries is found irresponsible, lackadaisical and non-responsive. The misconduct on the part of appellant is serious in nature because this department's aim is to secure food to the poor beneficiaries' i.e the marginalized persons of the society.

Therefore, considering the above facts, I do not find any merits in the appeal, hence, the Order dated 10.05.2018 of Assistant Commissioner (New Delhi) 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.



SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY

F. No.SPL.COMM./AA/FPS Appeal/F&S/2024/505-509

Dated: 28/6/24

Copy to:-

1. The Asstt. Commissioner (New Delhi), F&S Department, GNCT of Delhi.
2. Mr.Radhey Shyam, Prop of M/s Mahakali Store (FPS No. 7788) Circle-50 T-5, Outer Road, Malviya Nagar, New Delhi 110017, through Assistant Commissioner (New Delhi).
3. Mr.Radhey Shyam, Prop of M/s Mahakali Store (FPS No. 7788) Circle-50 T-5, Outer Road, Khidki Extn. Malviya Nagar, New Delhi 110017
4. Mr. Shailandra, AR, R/o 3243, School Street, Paharganj, New Delhi 110055.
- ✓ 5. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.



SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY