

**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. 456/2018

**IN THE MATTER OF:-**

M/s National Store,  
Fair Price Shop No. 7971,  
L-86, Chanakya Place Part II,  
Uttarm Nagar, New Delhi.

Smt Anjali Dahiya D/o Sh Paramjit Singh

o o o Appellant

Versus

The Assistant Commissioner (West)  
Department of Food and Supplies  
Govt of NCT of Delhi  
Delhi.

o o o Respondent

Date of Hearing:- 20.10.2022

**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 16/07/2016 and 03.10.2017 passed by the respondent.

Smt Anjali Dahiya D/o Sh Paramjit Singh, Appellant/Proprietor along with Shri Shailendra, AR were present.

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

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

**Brief facts of the case are as under:-**

An inspection of the business premises of M/s National Store (FPS No.7971 ) was carried out by the inspecting team of department on 22/01/2016 and the FPS was sealed as no records related with the FPS could be produced by the licensee. The FPS was de-sealed on 18/02/2016 and physical verification of stock of SFAs available in the FPS was carried out. Following discrepancies were reported by the inspecting team:-

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- a) Net variation of SFAs was 91.77 Quintal (wheat short).
- b) 81.54 Qtl of wheat received on 18/01/2016 was not carry forwarded by the licensee the FPS.
- c) Signatures of the card holders were not taken on the cash memos.
- d) Certificate of Weight & Measurement was not available.
- e) Stock Board as on date was not displayed.
- f) Complaint books was not available in the FPS, Complaint/RTI Board was not displayed.

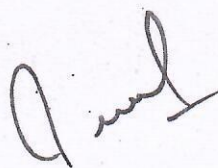
Accordingly, the authorization of the FPS was suspended by the Licensing Authority for the above mentioned deficiencies together with the fact the licensee had not got his license renewed despite several reminders vide suspension cum show cause notice dated 25/02/2016. The authorization of the FPS was cancelled vide order dated 16/07/2016 along with forfeiture of entire security amount. Aggrieved by the cancellation orders the proprietor filed an Appeal no 128/2016. The appeal was considered and heard by the then appellate authority and after taking into consideration all the facts vide order dt 29.03.2019 upheld the cancellation order by Licensing Authority.

Thereafter, the proprietor filed an Appeal before the Hon'ble LG, Delhi and on considering the same the Hon'ble LG taking a lenient view remand back the matter vide order dt 29.03.2017. 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 03.10.2017.

**The appellant submitted and argued as under:-**

- a. That the inspection of FPS was carried out unlawfully by violating the clause 25(2) of Delhi Specified Articles order 1981 as the inspection was not carried out in presence of two independent witnesses.
- b. That the affidavits of 07 cardholder submitted by him were not taken into consideration by the Licensing Authority. Verification of affidavits of cardholders was done by FSI/FSO C-30 improperly.
- c. That the team intentionally did not take stock of wheat to the tune of 81.54 quintal lying outside the door of the FPS under the cover of the protected shed on the grounds that the said stock was lying outside the business premises. FPS holder claims that the same stock is still available with him.
- d. The appellant refers the appellate authority order dt 02.12.2016 and stated that inspecting team consider the full bags as 50 kg each but if each bag was to be weighted individually than the variation might be not the same.
- e. The appellant quoted other order passed by the Department for granting the relief on the same matter to bolster his claim.
- f. He pleaded for relief as the FPS is only source of income for his family and his elder daughter is medically ill from last few months.

b. Contd.....





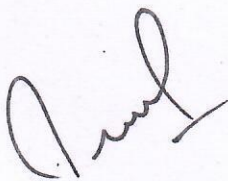
**The licensing authority submitted and argued as under:-**

- a. The inspection of the FPS during sealing/desealing in fair manner in due presence of the FPS holder and available witness and one representative of Area MLA and in this regard statement of FPS holder is also recorded and copy of duly signed seizure memo was handed over the FPS holder.
- b. In respect of authenticity of statement of cardholders the FSO/FSI C-30 after due verification reported that the card holders were under influence and generally moving around and given their statements under pressure. As such in detailed report they have clearly mentioned that few of card holders were already obtained their quota of SFAs and its not evident why they were visiting FPS after receipt of SFAs during that month. Ample opportunities were provided to the licensee during the course of hearing but earlier the licensee did not bring any of the statement before the Licensing Authority, but after passing a long period of time the contents are merely an afterthought. Further the FPS holder vide his written statement submitted that no quantity of SFAs was lying either inside or outside the said business premises. Further he also mentioned that the entitled quantity of SFAs as per cash memos issued by him have already been distributed and no quantity of SFAs was remaining to be delivered as per issued Cash-Memos.
- c. On the report of inspecting team and variation of such huge quantity of stock an FIR no 0207 dt 23.02.2016 against the FPS holder has already been lodged in PS Dabri and it would be appropriate if Court of law decides the fact of SFA available with the FPS holder or not. However, as per the report of inspecting team no record of SFAs lying in the authorized place which was remaining uncounted and same was accepted by the FPS holder in his statement. Now, after a long period of time it is an afterthought of his malafide intention.
- d. All the allegation over the inspecting team are fictitious as all the process of inspection procedure was carried out in transparent & fair manner in presence of FPS holder and independent witness. The FPS holder now is just trying to mold the facts by one or other excuses.

After hearing contentions of both the parties, examining their written submissions and perusing other relevant records placed before me, it is noted that contention of the licensee that inspection of FPS was carried out unlawfully by violating the law is untenable and as such all the process was carried out in presence of FPS holder, one independent witness and one representative of area MLA.

The version of FPS holder regarding not consideration of statements of 07 cardholders is not acceptable as opportunities on different dates of hearing were provided to the licensee but licensee did not present any such cardholder. After passes of long time he eventually turns up the statements even considering the same authenticity was cross verified by the area FSO/FSI who reported that the card holders were under influence and generally moving around and given their statements under pressure.

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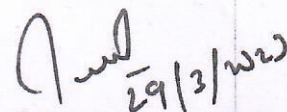
The grounds submitted by the licensee for non consideration of the SFAs unloaded outside the FPS is beyond justification and same is well explained in cancellation order also. The FPS holder is just repeating the same story without bringing any new facts in the case.

The citation of orders in the similar matters would not be appropriate at this juncture to question the wisdom and decision of the then Appellate Authority for awarding relief. It is always circumstantial and depends upon the merits and reasons of different cases. All cases cannot be viewed at same glance.

Therefore, considering the above facts, I do not find any merit in the appeal hence, the Order dated 16/07/2016 and 03.10.2017 passed by Assistant Commissioner (West) and 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.

  
(SUSHIL SINGH)

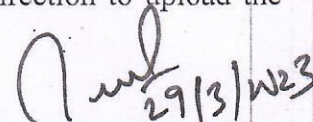
**SPECIAL COMMISSIONER(F&S)/APPELLATE AUTHORITY**

No.SPL.COMM./AA/FPS Appeal/F&S/2023 / 380 - 383

Dated: 05/04/2023

Copy to:

1. The Assistant Commissioner (West), F&S Deptt., Govt. of NCT of Delhi, Delhi.
2. Smt Anjali Dahiya D/o Sh Paramjit Singh, Proprietor of M/s National Store, FPS No.7971 through Assistant Commissioner (West)
3. M/s National Store, FPS No.7971, L-86, Chanakya Place Part II, Uttam Nagar, New Delhi.
- ✓ 4. 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**