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

No.F. SPL.COMM./AA/FPS Appeal/F&S/2022/ 1073-77 Dated: 18/10/22

Appeal No. 35/2021

M/s. Ronak Store
FPS No. 9135, C-09 (Kirari)

Shri Pratap Singh **.....Appellant**

Versus

The Assistant Commissioner (North-West) **.....Respondent**
Deptt. of Food Supplies & Consumer Affairs,
Delhi .

Date of Hearing : 06.10.2022

ORDER

The instant Appeal has been filed by Sh. Pratap Singh, Prop. **M/s. Ronak Store, FPS No. 9135, Circle - 09 (Kirari)** under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the Order No. F.AC/NW/2021/1807-08 dated 12.11.2021 passed by Assistant Commissioner (North West).

Shri Shailendra, Authorised Representative of Appellant and Smt. Sushila, Assistant Commissioner (North-West)/Respondent were present.

The brief facts of the case are as under:-

1. The appellant filed the present appeal to challenge the cancellation order dated 12.11.2021 passed by the then Asstt. Commissioner (North-West).

2. As per appeal, the appellant was running a fair price shop bearing no. 9135 under Circle-09. The petitioner due to old age (61 Yrs.) and being 40% physically handicapped applied for change in constitution on 30.09.2021 for inducting Shri Nitin Kumar S/o Shri Sat Pal aged 27 years old as 40% partner who is the caretaker and well wisher of the appellant in relation.

3. The Assistant Commissioner/Respondent rejected the request of the appellant for change in constitution vide impugned order dated 12.11.2021 on the ground that Shri Nitin Kumar is the son of Shri Satpal and not immediate family member of Shri Pratap Singh, Prop. of M/s. Ronak Store, (FPS No. 9135).

4. As per Department's Order No. F.12(2004)/F&S/P&C/385 dated 31.08.2001, members of immediate family may be inducted as partners in case of old age infirmity & ill health. Definition of "Family" is

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also described in the Department's Order No. F.20(7)/97/F&S/P&C/1221 dated 05.11.1997. i.e. Dependent father/mother, Spouse, Minor son/Brother, Unmarried real sister, Unmarried Daughter and Daughter in law is also eligible for induction. The appellant is an old person about 61 yrs and 40% physically handicapped and because of this reason, he applied for change in constitution for inducting his caretaker as a partner in the above mentioned FPS. The Asstt. Comm. (NW) refused his request as there was no blood relation/immediate family member between the appellant and proposed partner i.e. Shri Nitin Kumar.

The Case was called and heard at length.

The Authorised Representative of Appellant pleaded that the appellant is an old aged person of about 61 yrs and 40% physically handicapped and thereofe, he applied for change in constitution for inducting his caretaker as a partner in the above mentioned FPS. He stated that though there is no blood relation (immediate family member) between the appellant and proposed partner i.e. Shri Nitin Kumar S/o Shri Satpal but on sympathetic ground his case may be considered. The appellant quoted several similar cases in which change of constitution was allowed in favour of distant family members of the FPS holder including non-relation. For example : 1. Modern Store, FPS No. 5509 wherein Hon'ble Lt. Governor of Delhi allowed change in constitution in extended family member. He further stated that the Commissioner (F&S) filed an affidavit in the Court of Hon'ble Lt. Governor of Delhi wherein it was affirmed that the Department allowed approx. 18 FPSs in which the induction of extended members as partner was permitted. He submitted photocopy of the order for reference.

The Assistant Commissioner/Respondent reiterated the comments and submitted that the request of appellant was considered by the then Licensing Authority but not acceded to in view of the Department's Order No. F.20(7)/97/F&S/P&C/1221 dated 05.11.1997, F.20(7)/97-F&S(P&C)/1204 dated 03.08.1999 & No. F.12(2004)/F&S/P&C/385 dated 31.08.2004 wherein certain provisions have been laid down by the Department to address issues pertaining to change in constitution / induction of partner but the petitioner does not come under the purview of same. Accordingly, he requested to dismiss the appeal.

The question was put up by the Appellate Authority to Authorised Representative of Appellant, whether the induction of partner other then family member is permitted or not under existing rules and guidelines of the Department. The Authorised Representative of Appellant himself agreed that the same is not permissible on relevant rules and regulations of the Department.

After hearing contentions of both the parties, examining their written/verbal submissions and perusing other relevant records placed before me, it is observed that the FPS holder filed an application dated 30.09.2021 for change in constitution of M/s. Ronak Store (FPS No. 9135), Circle-09 (Kirari) for induction his well wisher as partner. As per records, the proposed partner i.e. Shri Nitin Kumar is the son of Shri Satpal and hence not the immediate family members of the petitioner Shri Pratap Singh (Prop.) of FPS. Certain provisions have been laid down by the Department vide different orders as mentioned above to address the issues pertaining to change in constitution / induction of partner but it is clear that the petitioner is not covered under the same.

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In view of the above, I am of the considered view that as per existing rules and guidelines prevailed on the matter the proposed partner i.e. Shri Nitin Kumar S/o Shri Satpal is not eligible for induction as partner in M/s. Ronak Store. Hence, the appeal filed by the petitioner has no merit and the Cancellation Order dated 12.11.2021 passed by the Licensing Authority is hereby upheld and accordingly the appeal is 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 review appeal is disposed of.

Parties be informed accordingly.

18/10/22

(SUSHIL SINGH)
SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY

No. F. SPL.COMM./AA/FPS Appeal/F&S/2022/ 1073-77 Dated: 18/10/2022

Copy to :-

1. The Assistant Commissioner (North West), F&S Deptt. GNCT of Delhi.
2. Shri Pratap Singh, Prop. M/s. Ronak Store (FPS No. – 9135), C-09 (Kirari) through Assistant Commissioner (North-West).
3. Shri Pratap Singh, Prop. M/s. Ronak Store (FPS No. – 9135), C-09 (Kirari), R/o 24/8, Singh Enclave, Prem Nagar-III, Kirari, New Delhi – 110086.
4. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.
5. PS to CFS for information pls.

18/10/22

(SUSHIL SINGH)
SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY