

**BEFORE THE APPELLATE AUTHORITY/SPECIAL COMMISSIONER  
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 | 116-120

Dated: 03.08.23

Appeal No. 26/2021  
Review Appeal No. 03/2022

In the matter of:

M/s Janta Khadya Bhandar,  
FPS No. 8542, Circle-26  
Madipur, Delhi

Smt. Anjna Devi.

Appellant

Versus

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

Respondent

**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 24.06.2016 passed by the respondent.

Appellant, Proprietor of FPS along with authorized Representative Sh. Amit, Proprietor's son was present during appeal proceedings.

Respondent, Assistant Commissioner (West), Ms. Sushila AC (West), Sh. Sunil Gaur, FSO, were present.

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

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

- a. That the Respondent vide order dated 11.08.2021 had cancelled the authorization of the Petitioner against which the petitioner had preferred an appeal before this Hon'ble court vide appeal no. 26/2021.
- b. That this Hon'ble court was pleased to dismiss the appeal vide order dated 09.12.2021, hence the present review petition.

  
3/8/23

**2. The appellant briefly submitted that:-**

- a. That the stock verification statement (SVS) was rectified thrice which manifests that the SVS was manipulated and the same was not signed by the FSO and due to this the SVS which is the primary evidence in the instant matter becomes doubtful.
- b. That the department had never done any door-to-door verification of the cardholders regarding the distribution of the SFAs. The Petitioner along with the written arguments is filing the photocopies of the statement of the cardholders wherein it is stated that they received the SFAs on time.
- c. That there is no complaint till date against the FPS holder regarding the supply of the SFAs to the cardholders. That the petitioner is also filing the photocopies of the stock-register.
- d. That on 14.01.2021 when the inspection was done, the signatures of some of the cardholders were not taken as well as the cash memos were not prepared due to the ill-health of the petitioner.
- e. That the petitioner is a widow lady and she did not know about the intricacies of the proceedings, thus she ought to have been provided legal aid as held by the Hon'ble Supreme Court in catena of judgments. She was not conversant with the fact that she had to produce the records for scrutiny and verification. This FPS shop is her only source of income.

**3. The appellant argued as under:-**

- a. That the petitioner had a Fair Price Shop (FPS) and had been authorized by the department of food and supplies Delhi to distribute specified food articles i.e. wheat, rice etc. to the cardholders at subsidized rates.
- b. That the respondent vide order dated 11.08.2021 had cancelled the authorized of the petitioner against which the petitioner had preferred and appeal before this Hon'ble court vide appeal no. 26/2021.
- c. That this Hon'ble court was pleased to dismiss the appeal vide order dated 09.12.2021 the petitioner is preferring the present review petition in order to bring forth certain facts which could not be brought to the notice of this Hon'ble court and asserted.
- d. That the facts if asserted before this Hon'ble court, the court would have not passed the impugned order. The facts are as follows:



1. That the respondent had failed to appreciate the fact that the petitioner had been time and again had been reiterating that she had distributed the SFA's to the card holders which fact ought to have been verified by conducting door to door verification.
2. That if the SFA's distributed to the card holders as per the list attached, there would be no shortage at all.
3. That the fact that the stock verification statement was rectified thrice which would go to show that the stock verification statement was manipulated and prepared only to harass the petitioner.
4. That this Hon'ble court as well as the respondent failed to appreciate the fact that the petitioner was a widow and not conversant with the intricacies of law. The petitioner ought to have been awarded legal assistance at the cost of the state as mandated by the Hon'ble Supreme Court of India.
5. That the above FPS is only source of income for the appellant.
6. That the impugned order dated 09.12.2021 was received by the petitioner after 15.12.2021, hence the present petition is within limitation.
7. The petitioner craves leave of this Hon'ble Court for raising more submissions at the time of hearing of the present review petition.

**4. The respondent submitted and argued as under:-**

- a. Denied on the fact that during the hearing of SCN issued on this matter on 31.07.2021, the appellant could not produce any documentary evidence regarding receiving of SFA's by the beneficiaries hence her reply was found unsatisfactory by the then licensing authority which led to cancellation the FPS on 11.08.2021. Even the list of beneficiaries now submitted in support of this review appeal has no substance in it or it is merely a afterthought as the appellant has not enclosed any statement/affidavits of the beneficiaries before or during the course of hearing, hence this list cannot be considered as authentic in this matter.
- b. Denied as the licensee has not submitted any document in support of her petition. No undertaking/affidavit regarding receipt of the SFA's has been submitted by any beneficiary through the proprietor. Only list of beneficiaries has been submitted by





licensee. The licensee did not provide any cogent record in support of her variation reported by the inspection team.

- c. Denied as the Stock variation statement was rectified inadvertently due to cutting/overwriting, the department has taken every measure to curb all the possibilities of miscalculation in SVS.
  - d. Denied as there is no relaxation exists in Rules and Regulations of Deptt. Of F&S for any category of FPS licensee/holders. As terms and condition are provided at the time of issuance of the license form.
5. In response to the comments submitted by the respondent the petitioner argued against the comments put forth before the appellate authority, in this regard the appellate has asked the petitioner to submit the written arguments. The arguments submitted by the petitioner is as given :
- a. That the stock verification statement (SVS) was rectified thrice which manifests that the SVS was manipulated and the same was not signed by the FSO and due to this the SVS which is the primary evidence in the instant matter becomes doubtful.
  - b. That the department had never done any door-to-door verification of the cardholders regarding the distribution of the SFAs. The Petitioner along with the written arguments is filing the photocopies of the statement of the cardholders wherein it is stated that they received the SFAs on time.
  - c. That there is no complaint till date against the FPS holder regarding the supply of the SFAs to the cardholders. That the petitioner is also filing the photocopies of the stock-register.
  - d. That on 14.01.2021 when the inspection was done, the signatures of some of the cardholders were not taken as well as the cash memos were not prepared due to the ill-health of the petitioner.
  - e. That the petitioner is a widow lady and she did not know about the intricacies of the proceedings, thus she ought to have been provided legal aid as held by the Hon'ble Supreme Court in catena of judgments. She was not conversant with the fact that she had to produce the records for scrutiny and verification. The records have already been submitted herewith and the petitioner prays that she be afforded an opportunity to explain the circumstances before the licensing authority.

f. That, This FPS shop is her only source of income.

6. After hearing exhaustive arguments of both the parties, examining their written submissions and perusing other relevant records placed before me, it is noted that :-

- (a) The written argument submitted by the petitioner is also supplied the respondent. The respondent in response to the written argument submitted by the petitioner verbally submitted before the appellate authority that the appellant failed to produce any substantial documents before licensing authority even after providing ample opportunity of being heard to the petitioner. However, the appellant submitted written testimonies of the Ration cards linked to his FPS along with written arguments about the lifting of ration by beneficiaries, There are about 123 submission (approximate) of NFS beneficiaries available on record which were submitted by the appellant wherein the NFS beneficiaries have generally affirmed that they have been supplied with SFA as per entitlement and have no complaint against the FPS. However none of the beneficiary was physically available for verification of their statements.
- (b) In response to the contention raise by the appellant regarding "*the stock verification statement (SVS) was rectified thrice which manifests that the SVS was manipulated and the same was not signed by the FSO and due to this the SVS which is the primary evidence in the instant matter becomes doubtful*" the respondent unable to submit any tenable argument or any other submission in his support for this contention raised by the appellant.

In view of the above notes it has been concluded that:-

- (a) In response to the copies testimonies of the Ration card as submitted by the appellant holders linked to the FPS no.8542 before the appellate authority, nothing plausible has been commented upon by the respondent.
- (b) The appellant being a lady who do not have intricacies of court proceeding and knowledge about the law she ought to have been provided with legal aid even after lapse of enough time.
- (c) In absence of any cogent argument by the respondent for the rectification made thrice in Stock variation statement which was calculated on the basis of recovery memo (which should be prepared in presence of independent witness at the time of inspection) which a primary evidence against the FPS.
- (d) The Statements of NFS beneficiaries (linked to the FPS at the time of inspection) submitted by the appellant during proceeding regarding issuance of appropriate SFA to them as per eligibility during the month of inspection needs to be verified as the same was not considered by the respondent earlier.

So I am of the considered view that one more opportunity of being heard to the petitioner will serve the purpose of natural justice.

In view of considering the above facts, arguments, circumstances and fair adjudication, the case is remanded back to Licensing Authority i.e Asst. Commissioner (North-West), who shall consider the petitioner case in accordance with the fresh submission again within three months uninfluenced by the fact that those documents have not been submitted at the initial stage and the order dated 11.08.2021 of AC (North West) is set aside.



(RAHUL SINGH)

SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.SPL.COMM./AA/FPS Appeal/F&S/2023 | 116-120

Dated: 03.08.23

Copy to:

1. The Asstt. Commissioner (West), F&S Deptt. With the request to furnish comments on the appeal already forwarded to you process the case further before the date of hearing.
2. M/s Janta Khadya Bhandar, FPS No. 8542, C-26, Madipur, New Delhi through Asstt. Commissioner (North).
3. Smt. Anjana Devi Proprietor of M/s Janta Khadya Bhandar, FPS No. 8542, C-26, R/o H. No. C-107, J. J. Colony, Madipur West Delhi-110068.
4. Sh. Sanjeev Kumar & Dheeraj Jagwani (Advocate) Ch. No. 16-17, Western Wing, Tis Hazari Courts, Dehi-110054.
5. PS to Commissioner (F&S) for information.



(RAHUL SINGH)

SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY