

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

F. No. SPL.COMM./AA/FPS Appeal (Review)/F&S/2024/ 515-518

Dated: 28/6/24

Review Appeal No. 21/2023  
(Against 1st Appeal No.16/2022)

M/s. Pramod Kumar,  
FPS No. 4989 (Circle-56, Kondli),  
C-29,30 Nehru Market, Kalyan Puri, Delhi-91  
Shri Munish Chand Gupta, (Partner).

.....Appellant

Versus

The Assistant Commissioner (East)  
Department of Food Supplies and Consumers Affairs,  
GNCT of Delhi.

..... Respondent

ORDER

The instant Appeal has been filed by Shri Munish Chand Gupta, Partner of M/s. Pramod Kumar, FPS No. 4989, C-56 (Kondli) under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against the cancellation Order No F.AC(E)/F&S/2022/574-581 dated 12.05.2022 passed by Assistant Commissioner (East).

**Brief facts of the case:-**

The authorization of the FPS No. 4989 M/s Pramod Kumar was in partnership of Shri Pramod Kumar & Shri Munish Chand Gupta. Shri Pramod Kumar expired on 19.11.2018 but Shri Munish Chand Gupta vide application dated 24.06.2021 beyond prescribed time, intimated the death of his partner and requested for change in constitution in his name. Discrepancies were observed during processing of case and explanation was sought from the applicant by the then Assistant Commissioner (East)/LA vide Show Cause Notices dated 02.11.2021 & 15.11.2021 for not intimating the death of partner within prescribed period of one month. It was also asked to submit the documentary proofs regarding educational qualifications. The applicant vides his reply pleaded forgiveness for delayed intimation but he had not submitted any documentary proof regarding his educational qualification. Considering all the facts and records the license of FPS was kept under suspension vide order dated 23.11.2021 for above discrepancies and FPS was further cancelled vide order dated 12.05.2022 issued by Assistant Commissioner (East). The present appeal has been filed against the cancellation Order No F.AC(E)/F&S/2022/574-581 dated 12.05.2022 issued by Assistant Commissioner (East), which was in pursuance of dismissal of first appeal no 16/2022 by then already dismissed by than Appellate Authority.

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#### **The submission of appellant:-**

The applicant could not inform regarding death of his partner due to ignorance and the same was unintentional for which the appellant apologized before the Licensing Authority as appellant was not aware about the rule position in this regard.

Further the appellant claimed that though the 10th class was passed by him from his native village around 46 years before and as such that the related documents were not available with him or with the school so he was unable to submit the same. Furthermore, he already had submitted an affidavit dated 02.07.2021 regarding 10th pass certificate. The Appellant also requested that on the basis of available submitted document change in constitution of firm and relaxation in educational qualification may be allowed as at the time of issuance of authorization in 1982 no essential qualification of 10th passed was required. However, vide Department guidelines dated 17.06.2002 the same became applicable but the same should be preferably not essential. However the appellant be able to maintain books of accounts.

The appellant submitted that respondent has passed the impugned cancellation order without application of mind in arbitrary and hurried manner against the principles of natural justice and without giving time to the appellant which also reflected in the cancellation order.

The appellant in his favor also quoted different orders passed by the Department for granting the relief on the similar matter to bolster his claim.

#### **The submission of Respondent:-**

It is expected from the FPS holder that he would act as per terms and conditions laid down in the Act and comply with the various orders issued by the Department from time to time. Information regarding Death of another partner of the said FPS was informed on 24.06.2021 i.e. after two and half year (approximately) violating the norms of the department.

Further Sh. Munish Chand Gupta, Partner of FPS No. 4989, (M/s Parmod Kumar) had submitted an affidavit dated 02.07.2021 declaring that he has passed 10th class in 1973-74 but does not have any proof of class 10th pass certificate. He also stated that he could not get the record of the certificate from the school in spite of many efforts. In the absence of essential qualification documents, no relaxation was allowed by the Competent Authorities and the above Cancellation Order was passed by the then Assistant Commissioner (East).

Ample opportunities of being heard were provided by the Licensing Authority to the FPS holder keeping in view of the natural justice. The FPS was cancelled by the then Assistant Commissioner (East) on 12.05.2022, after dully considering explanation/replies/written submission filled by the Partner of FPS No. 4989 on merits & as per the rules.

#### **Conclusion:-**

After hearing contentions of the parties, examining their written submissions and perusing other relevant records placed before me, it is noted that Appellant informed the department regarding death of his partner after two and half year (approximately) violating the norms by not informing the same within prescribed time of one month. The version of the appellant regarding ignorance of departmental guidelines is not acceptable as one is duty bound and has to act as per terms and conditions laid down in the Act and orders issued by the Department from time to time.





Appellant submitted through the affidavit that he passed 10<sup>th</sup> class but has not provided any documentary proof as no relaxation was allowed in this regard by the then Competent Authority.

The FPS was cancelled by the then Assistant Commissioner (East) on 12.05.2022 considering the relevant rules, on the basis of explanation/replies/written submission filed by the partner of FPS No. 4989 on merits after providing the opportunities of being heard to the FPS holder.

The present review appeal filed in respect of appeal no.16/2022, which was heard at length and enough opportunities were being provided to the appellant. The case was heard and dismissed vide order dated 26.04.2023 by the same Appellate Authority. The appellant was advised to file appeal to next higher authority i.e The Financial Commissioner Govt. of NCT of Delhi, against the orders if he desires so. But the appellant has again preferred this review appeal before the same Appellate Authority, which is not maintainable. Further, during this appeal proceeding, the appellant failed to bring any fresh submission/ arguments in his favour.

Therefore, considering the above facts, I do not find any merits in the appeal, hence, the Order dated 12.05.2022 of Assistant Commissioner (East) 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

No.SPL.COMM./AA/FPS Appeal (Review)/F&S/2024/ 515-518

Dated: 28/6/24

Copy to:

1. The Assistant Commissioner (East), F&S Deptt., GNCT of Delhi
2. Shri Munish Chand Gupta, Partner of M/s Pramod Kumar (FPS No. 4989), C-56 through Assistant Commissioner (East).
3. Shri Munish Chand Gupta, Partner of M/s Pramod Kumar (FPS No. 4989), C-56 R/o C-29,30 Nehru Market, Kalyan Puri, Delhi-110091
4. SSA (IT), F&S Deptt., K-Block, VikasBhawan, Delhi with the direction to upload the order on Department website.



SPECIAL COMMISSIONER (F&S)/APPELLATE AUTHORITY