

GOVT. OF NCT OF DELHI
OFFICE OF THE SPECIAL COMMISSIONER / APPELLATE AUTHORITY
DEPARTMENT OF FOOD SUPPLIES AND CONSUMERS AFFAIRS
K-BLOCK, VIKAS BHAWAN, I.P. ESTATE, NEW DELHI-110002

No. Spl.Comm./AA/FPS Appeal/F&S/2023/1199-1202

Dated: 10/9/2024

Appeal No. 27/2023

In the matter of:

M/s Krishna Provision store,
FPS No. 8839, Circle35,(Najafgarh),
Village, Mundhela Kalan, New Delhi- 110073

-----Appellant

Versus

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

-----Respondent

ORDER

The instant appeal is filed by Smt. Rani, Proprietor of M/s Krishna Provision Store, FPS No.8839, Circle35,(Najafgarh), Village Mundhela Kalan, New Delhi-110073 under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against Cancellation Order dated 20-11-2023 passed by the Respondent.

Brief facts of the case are as under:-

As per deployment Order No. R.03/F&S/Enf./2022/698 dated 02.11.2023, a physical inspection of business premises of M/s Krishna Provision Store, FPS No. 8839 situated at VPO-Mundhela Kalan functioning under Circle-35 (Najafgarh) was conducted by a team constituted by the Enforcement Branch, F&S Department. During the course of inspection the variation in Wheat and Rice (11670.80/-Kg. short) was reported by the inspection team with some other discrepancies/irregularities. Consequently, the FPS was cancelled by the Respondent vide cancellation order dated 20-11-2023 alongwith forfeiting the entire security amount. The appellant filed the present appeal against the mentioned cancellation order dated 20-11-2023 issued by Assistant Commissioner (South-West), F & S Deptt.

The Appellant's arguments & submissions inter-alia summarized as under:-

On 02.11.2023, an Inspection team had visited at the FPS of the appellant and observed some discrepancies subsequent to that on 07.11.2023, respondent issued a suspension cum show cause notice thereby directing the appellant to submit her written reply on 10.11.2023 and also suspended the FPS of the appellant by forfeiting the entire security amount of Rs.10,000/-.

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On 07-11-2023, the F&S team seized the e-pos machines, IRIS, weighing machine and other accessories of the FPS as per the orders of the AC (South-West) and also noted the stock in the inspection book of the FPS of the appellant after physically examining the same. The AC (South-West) on 20-11-2023 passed the cancellation Order ex-parte against the appellant. The appellant further submitted that on the date of inspection the FPS proprietor was not available and the team only considered the stock present at the FPS and did not consider the stock available with additional go-down, permission for which was already granted to the Appellant vide Order dated 17-10-2023.

It was submitted that the appellant distributed the SFAs from 02.11.2023 till 07.11.2023 through e-pos machine and on the same date, the concerned FSO/FSI seized the e-pos, IRIS, weighing machine and other accessories. Further, it was submitted by the appellant that the concerned FSO/FSI physically examined the FPS stock and the same was noted in the inspection book of the FPS, which was exactly the same, as per the data available on e-pos machine/Aepds portal data.

In addition to the above, it was also stated that the helper available at the time of inspection got nervous & intimidated by seeing the inspection team and inadvertently forgot to bring to the knowledge of inspection team the permission regarding the availability of additional go down. The appellant also submitted that she is a 55 years old widow lady and FPS is the only source of income to her and her family.

The Assistant Commissioner (South-West), Respondent submitted and argued as under:-

The inspection team carried out the inspection in presence of salesman and two other independent witnesses and FPS representative stated that there was no permission for additional Go-down for storing SFA. The FPS was cancelled on the basis of the report of Enforcement Branch that SFA was found to be 11670.80 Kg. short at the time of inspection on 02.11.2023 and the submission given by the FPS holder cannot be considered that Circle FSO/FSI while handing over Suspension-cum Show Cause Notice and seizing the e-pos machine noted a physical quantity of wheat 44.31 qtl. & Rice 21.50 qtl. lying at FPS on 07.11.23. However during hearing, the appellant submitted Additional Go-down permission dated 17-10-2023 but same was denied by the salesman during statement on 02-11-2023, before inspection team. The FPS owner was given sufficient time to present here submission vide hearing opportunities on 10-11-2023 and 20-11-2023.

Further, vide letter dated 04.07.2024, the respondent submitted that as per available record of office of the circle-35 (Najafgarh), the additional godown at Kh. 6/17, V.P.O, Mundhela Najafgarh was allowed by the concerned FSO, C-35 (Najafgarh) vide his permission dated 17.10.2023, which is prior to the date of inspection (02.11.2023) of the said FPS by the Enforcement Team.



After hearing contentions of the parties, examining their written submissions and perusing other relevant records placed, it is noted that:-

The inspection was carried out by the Enforcement Team in the presence of the salesman. During the inspection the whole process was carried out in transparent manner and the FPS salesman failed to mention or produce the permission of additional go down at the time of inspection. Furthermore, the FPS holder also was absent during the opportunities given to her and failed to convey her stand of innocence, which lead to suspension of FPS. The letter dated 04-07-2024 of respondent on record clarifies that the additional go-down permission for storing SFAs was given to the FPS by the concerned circle office on 17-10-2023, which is prior to the date of inspection i.e. 02-11-2023 of the said FPS by the Enforcement Team which was not provided at the time of inspection on 02.11.2023 therefore resulting in variation in SFAs. The version of the appellant deserves relief as it contains merit and the order dated 20-11-2023, cancelling FPS issued by the respondent is hereby set aside and the FPS is allowed to continue without any other relief. Licensing Authority is at the liberty to take action against other violation reported during inspection. Further All the FPSs of Govt. of NCT of Delhi, be categorically directed to display the permission of additional go-down, if granted, on the notice board of FPS so that no such ambiguity further persists during any inspection carried out in future. The inspection teams are also directed to ensure and verify these facts from the FPS Licensee.

The appeal is disposed of in the aforesaid terms.

Parties be informed accordingly.



(SUSHIL SINGH)

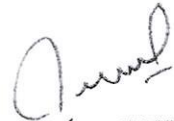
**SPECIAL COMMISSIONER (F&S)/
APPELLATE AUTHORITY**

No.SPL.COMM./AA/FPS Appeal/F&S/2023/1199-1202

Dated: 10/11/2024

Copy to:-

1. The Asstt. Commissioner (South-West), F&S Department, GNCT of Delhi.
2. Smt. Rani, Prop. of M/s Krishna Provision store, FPS No. 8839, Circle35,(Najafgarh),Village Mundhela Kalan, New Delhi-110073, through Assistant Commissioner (South-West)).
3. Assistant commissioner (Enforcement), F&S, Department with the direction to issue an appropriate order as directed immediately
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**