

OFFICE OF THE COMMISSIONER/APPELLATE AUTHORITY  
DEPARTMENT OF FOOD SUPPLIES AND CONSUMERS AFFAIRS  
GOVT. OF NCT OF DELHI,  
ROOM No.101 ,1<sup>ST</sup> FLOOR, K-BLOCK, VIKAS BHAWAN, I.P.ESTATE,  
NEW DELHI-110002.

No.PA/COMM./AA/FPS Appeal/F&S/2019/1921-24

Dated: 14.02.2020

APPEAL NO. 005/2017

In the matter of:

M/s. Uma Store,

FPS No. 9187, Circle -68 (Johripur)

A-3, Pradhanwali Gali, Johripur, Delhi.

Smt. Uma Devi

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Appellant

V/s

The Assistant Commissioner (North East)

Deptt. of Food Supplies & Consumer Affairs,

Delhi.

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Respondent

**ORDER**

The instant appeal has been filed under Clause 6(8) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against Cancellation Order dated 27/03/2017 passed by the Respondent and the Orders dated 02.03.2017, 05.09.2017 and 12.12.2017 passed by the then respective Appellate Authorities. It now lies before the Appellate Authority in pursuance of Order dated 04.07.2018 passed by the Hon'ble Lt. Governor remanding back the case to the Commissioner, Food & Supplies, to decide the matter afresh.

Case was called and both the parties were heard.

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

The Appellant i.e. Smt Uma Devi was granted authorization/license to run the FPS vide Order dated 20.01.2016. Vide Deployment Order dated 16.09.2016 an inspecting team was deployed for checking FPS No. 9187. The Enforcement Team visited the above said FPS on 19.09.2016 and found the same closed. The FPS was sealed by the team which was later de-sealed on 29.09.2016. After de-sealing, the Enforcement team conducted the survey of the FPS and a variation of 22.92 Quintal (Wheat 11.96 Qtl. short and Rice 10.96 Qtl. excess) was reported by the Enforcement Team.

After giving due opportunity of hearing to the licensee, the licensing authority suspended the authorization of the FPS along with forfeiture of security amount vide Order dated 29.12.2016. The appeal against Suspension Order was preferred by the Appellant vide Appeal no. 147/2017. It was dismissed by the then Appellate Authority vide Order dated 02.03.2017. The license of the FPS was thereafter cancelled vide Order dated 27.03.2017.

The Appellant filed for review of the Order dated 02.03.2017 which was also dismissed by the then Appellate Authority vide Order dated 05.09.2017.

Again a Review was filed by the Appellant against Order dated 02.03.17 and 05.09.17 which was also dismissed by the then Appellate Authority vide Order dated 12.12.2017.

Thereafter the Appellant filed an Appeal in the Court of Hon'ble Lieutenant Governor of Delhi. The Hon'ble LG vide Order dated 04.07.2018 remanded back the case to the Commissioner (F&S) to decide the matter afresh.

During the course of the hearing the Appellant argued the following:

The Appellant submitted that the Enforcement team prepared Entry-cum-Search-cum-Recovery-cum-Counting-Weighment Memo without properly counting and verifying the stock of Wheat and Rice.

That since the inspection was conducted without proper lighting, the number of bags of Wheat and Rice were wrongly recorded.

It was further contended that the Enforcement team did not check the daily stock entry for 29.09.2016 which also does not find mention in the Entry-cum-Search-cum-Recovery-cum-Counting-Weighment Memo. The Appellant also submitted that there is no complaint against the FPS by any card holder and the FPS is the only source of livelihood for the licensee.

The Respondent submitted the following:

According to the Respondent the inspection was carried out thoroughly and accurately in proper light and in fair manner by the inspecting team in presence of Sh. Ashok Kumar, representing FPS No. 9187 and one independent witness, both of whom duly signed the Entry-cum-Search-cum-Recovery-cum-Counting-Weighment Memo without raising any objection at that time.

That the Inspecting team has taken into account the records as available and provided by the Appellant on the particular date and time of inspection of FPS.

Necessary opportunity has been provided to the Licensee and all facts and circumstances of the case have been considered before passing the final Order.

After hearing the submissions of both parties, examining their written submissions and perusing other relevant records placed before me, it is noted that as per the Entry cum Search cum Recovery cum Counting cum Weighment Memo prepared by the Inspection Team, Stock Register with entries w.e.f. 01.02.2016 to 12.09.2016 and 3 number of Sales Register with entries from 07/08/16 to 02/09/2016, 02/09/2016 to 09/09/2016, 09/09/16 to 11/09/2016 as provided by the Appellant at the time of the inspection were taken into custody. The Stock Variation Statement was accordingly prepared keeping in view the entries in the stock register, sales register and physical quantity of SFAs available in the FPS on the day of de-sealing i.e. 29.09.2016 as counted in the presence of Sh. Ashok Kumar, Representative of FPS No. 9187 and an independent witness. The memo was also signed by Sh. Ashok Kumar on behalf of the FPS No. 9187 without any objection.

The contention of the Appellant that the Inspection Team has not considered the daily stock register for 29.09.2016 does not appear tenable. Given the fact that the Shop was sealed on 19.09.2016 at 4.45 pm, and de-sealed on 29.09.2016 at 5.30 pm, no sale during the interim period could have taken place. Therefore, in the best case scenario stock entries up to 19.09.2016 could have been considered during inspection. In the present case they have been

considered up to 11.09.2016 as per entries available in the register taken into custody at the time of inspection. details of which are duly mentioned in the Recovery Memo. Further, it is not understood as to how an entry in the stock register for 29.09.2016 could be made as during the inspection on 29.09.16 the stock/sale register were taken in custody by the Inspecting Team. The stock entries provided by the Appellant clearly appears to be an afterthought and cannot be relied on as credible evidence in support of the argument adduced. Further, it is noted that the sale of SFAs was resumed by the Licensee only on 30.09.2016 for which new Stock and Sale Registers were opened.

Even for once if one considers the possibility that the stock register and the sales register taken into custody during the inspection were not updated by the Licensee, or in other words the sale during the period from 13.09.2016 to 19.09.2016 (if any) was not recorded, in such a scenario , shortage of both Wheat and Rice should have been reported. However, in this case an excess of 10.96 Qtls of Rice has been found. Excess SFAs are indicative of non delivery of stipulated quantity of ration due to the beneficiaries which is clearly a violation of the terms and conditions of the license.

The plea of the licensee that there was error in counting of bags by the team is an afterthought as the entire process was carried out in the presence of Sh. Ashok on behalf of the FPS who also signed the memo without raising any objection.

Overall variation of 22.92 quintals of SFAs as found during the inspection clearly reveals mismanagement of the SFAs meant for the disadvantaged sections of the society by the Licensee constituting a serious violation of the Delhi Specified Articles (Regulation of Distribution) Order, 1981. In view of the same, I do not see any reason to modify or set aside the Order passed by the Licensing Authority in the matter.

The Appeal is accordingly disposed off. Parties be informed accordingly.

(ANKITA MISHRA BUNDELA)  
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/COMM./AA/FPS Appeal/F&S/2019/1921-24(A)

Dated: 14.02.2020

Copy to:-

1. The Asstt. Commissioner (North East), F&S Deptt., Delhi.
2. M/s Uma Store, FPS No. 9187, Circle-68 through Asstt. Commissioner (North-East).
3. Smt. Uma Devi, M/s. Uma Store. FPS No. 9187, Circle-68, R/o A-3, Pradhanwali Gali, Johripur, Delhi - 110094.
4. Mr. Shailendra (AR), R/o 3243, School Street, Pahar Ganj, New Delhi-110055.
5. Section Officer, Court of Lieutenant Governor, GNCTD, Raj Niwas, Delhi w.r.t. letter No. 04/2018 dated: 24.07.2018

(ANKITA MISHRA BUNDELA)  
COMMISSIONER (F&S)/APPELLATE AUTHORITY