

**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/2019/91-94

Dated: 24.06.2020

**APPEAL NO. 48/2019**

In the matter of:

M/s. Durga Store,  
FPS No.9237, Circle -03(Timarpur),  
C-354, Nehru Vihar, Delhi

Through its proprietor Smt. Poonam Narang -----

Appellant

V/s

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

Respondent

**ORDER**

Whereas, Smt. Poonam Narang, the licensee of M/s Durga Store, FPS No. 9237, Circle -03 (Timarpur) C-354, Nehru Vihar, Delhi, has filed an Appeal under the Delhi Specified Articles (Regulation of Distribution) Order, 1981 and PDS Order, 2001 against the Cancellation Order No. F.AC/N/F&S/FPS-8237/2019/758-763 dated: 28.08.19 issued by the Assistant Commissioner (North), Respondent. The grounds of Cancellation of authorization were based on the findings of surprise visit/inspection conducted by the Enforcement Team on 03.08.2019.

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

The Appellant submitted the following:

- (i) The impugned cancellation Order dated: 28.08.2019 is arbitrary, illegal, non-speaking and without application of mind. The Respondent did not consider each and every fact, circumstances and evidences produced by the Appellant before passing of the impugned Order as well as evidences on record favouring the Appellant.
- (ii) The Respondent has failed to appreciate reply and other submissions of the Appellant regarding its innocence in respect of alleged discrepancies/shortcomings.
- (iii) The stock entry was not made in the stock board was alleged discrepancy No. 1 against the Appellant. The said charge is incorrect because stock position was very much written on the stock board by white chalk stick at the time of opening the shop on the day of inspection.
- (iv) That in charge no 2, there is allegation of net variation to the tune of 1.31 quintals (wheat excess). There is intentional miscalculation on the part of the inspecting team in preparing the Stock Variation Statement (SVS). The total sale of wheat (PR) from 01.08.2019 to 03.08.2019 comes out to be 14.76 Qtls while the Enforcement Team recorded the figure to be 15.04 Qtls. This amounts to miscalculation of **28 Kg** of wheat.

Further, two card holders each on 02.08.2020 and 03.08.2019, could not lift their cumulative entitlement of **100 Kg** of wheat due to non availability of rickshaw. Thus, actual stock variation comes out to be **3 Kg (131-28-100=03)** which is minor in nature. The Respondent did not consider the statements and affidavits submitted by the persons who could not lift their ration.

- (v) During the proceedings dated: 26.08.2019, the three card holders in question out of four as mentioned above, appeared in person before the respondent with their affidavits explaining the circumstances regarding lifting of wheat left by them at the above FPS. Fourth card holder was not available in Delhi on the said date. So, the Respondent neither considered their statement nor their Affidavits before passing the impugned Cancellation Order.
- (vi) The charges regarding recovery of three cash memos is self-contradictory in nature because at one place it is stated that the team found three loose original cash memos of PR category dated 02/08/2019 with the FPS owner and were seized by team while at another place it has been stated that three cash memos were recovered from the persons who were available on Atta Chakki by the staff of Hon'ble Minister, Food and Supplies and further, same were handed over to the enforcement officials of the Department.
- (vii) As per door-to-door verification report pertaining to the beneficiaries issued against cash memos in question, all the cardholders have stated that they have received the SFA as per rate described on the cash memo.

The Respondent stated the following:

- (i) The license was issued to FPS No. 9237, M/s Durga Store for running a Fair Price Shop in accordance with the terms and condition of License/essential Commodities Act, 1955/PDS Control Order, 2001/Delhi Specified Article (Regulation of Distribution) Order, 1981 and instructions issued from time to time. But when the FPS was inspected on 09.08.2019 by the duly constituted Enforcement Team, variation of more than 1.31 Qtls SFAs was found, therefore, the FPS Proprietor has failed to act strictly in accordance with rules and instructions issued from time to time.
- (ii) The stock entry was not made in the stock board.
- (iii) The net variation of SFAs comes to the tune of 1.01 Qtls (Wheat 01.31 Qtls in excess)
- (iv) The Enforcement Team has found 3 loose original cash Memos of PR category dated: 02.08.2019 and out of these 3 figures/calculation made on front side and back side of the cash memos tally on some.
- (v) All the facts mentioned by the Appellant had been considered by the Licensing Authority/Assistant Commissioner (North), F&S as mentioned in foregoing paragraphs before placing the authorization of FPS No. 9237, M/s Durga Store under suspension with immediate effect vide Order dated 19.08.2019 and cancelled vide Cancellation Order dated 28.08.2019. Now, the Appellant has not mentioned anything in its defence

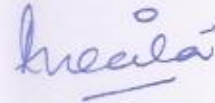


for the lapses committed by it as pointed out by the Enforcement Team who had conducted the inspection of said FPS.

- (vi) The submission made by the Appellant, the reply dated: 14.08.2019 vide para C), is totally false/incorrect that stock position was very much written on the stock board by white chalk because Ms. Poonam Narang, Proprietor of the FPS herself admitted at last page of here written statement that stock position was not mentioned on the stock board. Now, the Appellant has not mentioned anything his defence for the lapses committed by him as pointed out by the Enforcement Team.
- (vii) The Appellant is trying to give different colour to the issue to cover up her misconduct/lapses mentioned that Hon'ble MLA and his PA directed the Enforcement Team to take the action against the said FPS.

After hearing contentions of both the parties, perusing their written submissions and examining other relevant records placed before me, it is seen that the Cancellation Order dated 28.08.2019 of the Assistant Commissioner (North) is not 'speaking' in nature. From the contents of the Order, it is not clear whether the contentions of the Appellant regarding the Stock Variation Statement were duly considered by the Licensing Authority or not. The Cancellation Order dated 28.08.2019 is silent on the issue. Therefore, in the interest of justice and fair play the case is remanded back to Assistant Commissioner (North), Licensing Authority with the direction to decide the matter afresh after due consideration of facts and circumstances of the case.

The appeal stands disposed of. Parties be informed accordingly.



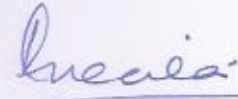
(ANKITA MISHRA BUNDELA)  
COMMISSIONER (F&S)/APPELLATE AUTHORITY

No.PA/COMM./AA/FPS Appeal/F&S/2019/ 91-94

Dated: 24.06.2020

Copy to :-

1. The Assistant Commissioner (North), F&S Deptt., GNCT of Delhi.
2. Smt. Poonam Narang, Proprietor of M/s Durga Store (FPS No.- 9237), Circle-03 through Assistant Commissioner (North).
3. Smt. Poonam, Proprietor of M/s Durga Store (FPS No.-9237), Circle-03 R/o 1166, Dr. Mukherjee Nagar, Delhi.
4. Mr. Shailendra (AR) R/o 3243, School Street, Pahar Ganj, New Delhi-110055.



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